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COMMITTEE ON HEALTH AND HUMAN SERVICES
February 8, 2006
LB 1242, 854, 1248, 1232, 1068, 1231

The Committee on Health and Human Services met at 1:30 p.m. on Wednesday, February 8, 2006, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 1242, LB 854, LB 1248, LB 1232, LB 1068, and LB 1231. Senators present: Senator Jensen, Senator Byars, Senator Johnson, Senator Howard, Senator Stuthman, Senator Erdman. Senators absent: Senator Cunningham.

SENATOR JENSEN: Good afternoon, ladies and gentleman. Welcome to the Health and Human Services Committee. I will briefly go over a few of the rules that we'll be following today. And this is a public meeting. This is a hearing process. This is a process where we hear from you as to what your feelings are on a particular proposed legislation. There are sign-in sheets, if you're going to testify, over on the side. I would ask that you have those signed and filled out before you come up to testify. And then when you do come up to testify, drop them in this little wooden box at the table. Let us know if you're representing yourself or an organization. Also spell your last name for us. These proceedings are transcribed, recorded, and so we want to make sure that we have everything down correctly. If you're carrying a cell phone, I would ask that you shut the ringer off at least, so that that doesn't go off in the transcriber's ears. We have six bills before us today, a very heavy afternoon. And I would ask that if you're coming up to testify and if you're passing out sheets, the correct number is 12. If you don't have that many, why, we can reproduce that number. Also, I would ask that you keep your testimony to at least two pages. If it's more than that, consolidate it, condense it, whatever. Also if somebody else has already said what you were going to say, let's not be redundant. Just say, yes, or whatever. We'll even have a sign-in sheet that we'll pass around if you just want to sign that and make your presence known and also how you feel, either for or against. We hear testimony, first proponent testimony, then opponent testimony, and then neutral testimony if there is any. With that, I'll introduce you to the senators that are here. Again, this is bill introduction time, so we have other senators in other parts of the building. To my far left is Senator Howard from Omaha; then next to her is Senator Joel Johnson from

Kearney; to my left also is Joan Warner who is the committee clerk; I'm Jim Jensen serving as Chairman; to my right is Jeff Santema who is committee counsel; and next to him is Dennis Byars who is Vice Chairman of the committee from Beatrice. And I'll introduce the other senators as they do come in. With that, we're ready to begin.

LB 1242

SENATOR JENSEN: The first bill to be heard is LB 1242. Senator Foley is here to begin that. Welcome.

SENATOR FOLEY: (Exhibit 1) Thank you, Mr. Chairman. Good afternoon. For the record, my name is Mike Foley, representing District 29 in the Legislature. Let me begin by telling you that the clerk is now going to pass out to you an amended form of the bill. And I want to express my appreciation to former Senator Chris Peterson, now policy secretary at HHS, for all the hours that she and her staff have devoted to this issue. They have been working very closely with us and we've got an amended form of the bill. We think we've got it right. And if we don't we'll work with you and we'll get it right. LB 1242 is a bill that seeks to revise and restructure a longstanding program that assists low-income women with rudimentary healthcare services such as Pap smears and chlamydia tests. These services are currently funded through the appropriations bill. It's in our state budget, and it's been so funded for many years. The legislation before you does not change the funding level already in our state budget but only seeks to revise the manner in which the services are delivered to low-income women. This program has its genesis in the state budget enacted in 1991. Funding was provided in that year and in each subsequent budget cycle thereafter, including the most recent budget cycle. However, there has never been any significant legislative guidance to Nebraska Department of HHS as to how this program was to be administered. For example, the budget language does not specify that the program recipients are to be low-income persons. That's always been presumed but there is no legislative language that specifies that that be the case, and this amendment addresses that question. In addition, there has never been any legislative language as to who would and who could not

be the provider of the services. In the early days of the program, going way back to the early 1990s, HHS determined--and again, this was without any legislative guidance--that the only eligible providers of services under this program would be limited to the 14 or so healthcare providers that received funding pursuant to the federal Title X program. This is a very severe and unnecessary restriction on access to service. If a low-income woman in Mullen, Nebraska, needs services under this program, her closest location is in North Platte, 91 miles away. If a low-income woman in Sargent, Nebraska, needs services under this program, her closest location is in Bassett, Nebraska, 68 miles away. I could readily cite dozens of other examples of municipalities in Nebraska that are 50 or more miles away from the nearest provider of services under this program. One might expect to travel long distances to receive an MRI or a CAT scan or some other high-tech medical service. But certainly, no woman should have to travel 91 miles for such a basic, fundamental service as a Pap smear. There's also the matter of the controversy associated with some of the current providers. For example, in Lincoln, if a low-income woman needs services under this program, she has one and only one option in Lincoln. She must go to the Planned Parenthood Clinic. Despite the dozens and dozens of healthcare providers in Lincoln, including the local health department, our federally qualified health center, numerous hospitals, and a myriad of other public and private healthcare providers, all of whom could readily offer these services, HHS only contracts with Planned Parenthood in Lincoln to offer the services here. If the Lincoln woman in my example needs the services and doesn't want to go to Planned Parenthood, her nearest options are in Beatrice, 43 miles away, or Tecumseh, 54 miles away. I would respectfully suggest to you that that situation is patently unfair to a low-income woman in need of rudimentary healthcare. The amendment before you, as I stated, is a rewrite of the bill, substantially opens up the number of eligible providers for services under this program without prohibiting any of the current providers from applying for a new contract to continue offering services. Hospitals, certified rural health clinics, local public health departments, Indian health services facilities, federally qualified health clinics, public health clinics, and private healthcare providers could all

apply to HHS for a contract to provide these services under the bill. The bill would operate the program with funds already appropriated and no new funding is requested here. With that, Mr. Chairman, I'll close my opening. And I'd be pleased to take any questions. I have submitted to you a letter from Douglas County Health Department for the record.

SENATOR JENSEN: (Exhibits 2 and 3) Yes, thank you, Senator Foley. I do have a letter from the Douglas County Health Department in support. I have a letter from Nebraska Association of County Officials in opposition. And I have a letter from Planned Parenthood in opposition. And those will be entered into the record. Any questions of Senator Foley? Yes, Senator Howard.

SENATOR HOWARD: Senator Foley, are these medical treatments that you've described, are they covered under Medicaid and Medicare?

SENATOR FOLEY: Some may and some may not, Senator. I'm not sure. What we're...

SENATOR HOWARD: Which ones wouldn't be?

SENATOR FOLEY: ...what we're talking about here is a program that is strictly General Fund dollars. These are General Fund state tax dollars. It's a special program that we have implemented above and beyond whatever might be available through the Medicare and Medicaid program.

SENATOR HOWARD: But I think it's germane to the issue to discuss what services would be available from clinics and still come under the billing of Medicaid.

SENATOR FOLEY: I'm not quite tracking what your point is, Senator.

SENATOR HOWARD: Well, when you describe these services as being available to people with limited incomes or resource limitations...

SENATOR FOLEY: Well, that's the intent of the program.

SENATOR HOWARD: Exactly, I understand that. But these

individuals would also be eligible or possibly receiving funds or support...

SENATOR FOLEY: Well, if your argument were correct, then we wouldn't need the program, if it was already there, federal funding.

SENATOR HOWARD: Well, and that's a very good point. That's a very good point.

SENATOR FOLEY: And I'm not here to make that case. We're not trying to jeopardize this program in any way, shape, or form. I've always supported the program. It's just a question of who gets to be the provider.

SENATOR HOWARD: Well, and I'm seeking a little clarification regarding the availability of services. If the individuals were eligible under the Medicaid program, and the services are provided from the hospital in the community, I'm confused as to why they wouldn't use that.

SENATOR FOLEY: Because these are subsidized services where women...a low-income woman can receive the services without charge under the state program. They can receive services without charge. It's a valuable program. It's good public policy. It's good for public health purposes, and that's why I've always supported the program.

SENATOR HOWARD: Well, I appreciate that. And I appreciate that you recognize that. However, the Medicaid program, the eligibility factor is there. There is not a charge to the individual, to the woman, to come in for those services.

SENATOR FOLEY: Well, again, if you're making the case that we don't need the program, I'm afraid I can't join you with that because I think we do.

SENATOR HOWARD: That's not the case I'm making, sir. I'm saying that there are other billing mechanisms, other community resources rather than shifting the program.

SENATOR JENSEN: Any other questions for Senator Foley? I also want to introduce Senator Stuthman from Platte Center who has joined us and Senator Erdman from Bayard, Nebraska.

I don't see any other questions. Thank you.

SENATOR FOLEY: Mr. Chairman, if I can make one point. You noted for the record that the county officials had submitted a letter in opposition. There was a key change that was made that they may not be aware of, and that is, the original bill directed HHS...

SENATOR JENSEN: After the amendment.

SENATOR FOLEY: Right. That they must contract. And this is a "may" contract. It would be at the option of the local health department, if they wanted to apply for these funds. They're not required to if they're not interested. If they feel that the service is already there and they don't want to duplicate it, that's fine.

SENATOR JENSEN: And also, I would think that perhaps a young girl, young woman who went in to want an STD test maybe might not sign up for Medicaid or might not want to even disclose perhaps...

SENATOR FOLEY: Right.

SENATOR JENSEN: ...to her parents that she wants this test.

SENATOR FOLEY: Exactly.

SENATOR JENSEN: Any other questions? Thank you, Senator Foley. Will you be here to close also?

SENATOR FOLEY: Yes, I will.

SENATOR JENSEN: Very good. Anyone else wish to testify in support?

CHRIS PETERSON: (Exhibit 4) Good afternoon, Senator Jensen, and members of the Health and Human Services Committee. I'm Chris Peterson, P-e-t-e-r-s-o-n, policy secretary for the Health and Human Services System, and I am here to testify in support of LB 1242. And if I might take a moment to address Senator Howard's question. With her knowledge of, obviously, the Health and Human Service System, the Medicaid providers are a crucial part of our

system of care. This provides services for people who would not fall...who would not be Medicaid eligible, either through federal poverty level or they would not be part of a family. So it would pick up the gaps with General Funds for women who would not be Medicaid eligible. Medicaid eligible providers are across the state, and so there is a wide network, as you said, that is available for Medicaid eligible services of this kind. This bill will require the Department of Health and Human Services to contract with local public health departments to provide a range of services to low-income patients. These services include a number of cervical cancer screening and diagnosis procedures and sexually transmitted disease testing and treatment, as well as certain associated laboratory equipment and training costs. And, as Senator Foley said, that has changed in the amendment. The bill allows the department to contract with other healthcare providers so that such services are reasonably available throughout the state. The agency currently does contract with private vendors for the majority of these services. State General Funds have been appropriated to support some or all of these services since fiscal year 1991-1992. For fiscal year 2006 to 2007, the appropriation is $474,327. Since 1991, these services have been provided through Title X planning programs across the state, as Senator Foley explained. These programs include a wide range of private nonprofit organizations but only one health department, which is the East Central District Health Department. I would note that the agency is aware of only two public health departments that actually provide services. Those are located in Lancaster and Platte Counties. Therefore, the bill authorizes the Health and Human Services System to contract with other providers necessary to provide services on a statewide basis, hopefully to draw a comparison with the eligibility we have for Medicare providers. In addition, the bill will now broaden the pool of potential providers, so the services that did not exist when the agency first contracted for the program services in 1991. For example, federally qualified health centers, or FQHCs, would be eligible under the provisions of the bill. I would welcome any questions the committee may have.

SENATOR JENSEN: (Exhibit 5) Thank you, Ms. Peterson. Any questions from the committee? Thank you for your testimony.

I also have another letter from the Public Health Association of Nebraska, which says, "The Public Health Association supports the wording changes made in the amendment." That will be entered into the record. Anyone else wish to testify in support? Anyone in opposition? Any neutral testimony? And if we can, if you're going to testify, could you kind of work your way up to the front each time? Hi.

STEPHANIE CLARK: (Exhibit 6) Good afternoon, Senators. My name is Stephanie Clark, C-l-a-r-k, and I am testifying today as a board member on the Board of Directors of Family Health Services in Tecumseh, Nebraska. LB 1242 is not a necessary bill, as the Department has already the authority to subcontract with any qualified provider for Pap tests or for sexually transmitted disease detection services. In the past, the Department has primarily contracted with family planning agencies. These agencies have the experience and expertise to meet the need in the communities. The expertise is essential. They have the experience. They have the established relationships with the clients to provide these services and have provided them for the past 32 years. People generally do not like change. How many of us would chose to change our doctor or dentist regularly? Why should the state purchase new equipment, train new providers at the health departments as well? That's an issue of cost, increased cost to the state. The Title X providers already have the equipment, the trained staff, the relationship with the clientele to provide both birth control, contraception, and to detect the STDs with one Pap smear per year per woman. The family planning clinics have this experience and that expertise is essential. The services are essential. The funds that family planning clinics would lose if they are not contracted with under LB 1242 are needed by the women who use them, especially because many of these women, or significant numbers of these women, have a low income, although they may not be Medicaid eligible. With the sliding fee scales that Family Health Services provide, no one is turned away, even if they cannot afford to pay anything. I think there's a stigma and, quite frankly, embarrassment for a women to have to go for a separate screening for STDs and then again have a separate Pap smear for her birth control. They would have two separate exams. For many women, I think, going for one exam

a year is the best we can hope for. And that is our hope, that funding will remain with the family planning services. If an individual has to get their birth control and then go to another provider to be checked again, if they want to be checked for STDs, there's just simply with that stigma and that embarrassment, I don't believe STDs will be checked for and I think that they will be on the rise. I would expect that there's no reason someone can't have their Pap smear, Pap test, and an STD screen with one examination. They can go to one place. They can go to Family Health Services. And if the Title X providers were to lose this funding and not be contracted with under LB 1242, I believe there will be an increase in STDs, some of which can lead to cervical or uterine cancer and can also lead to infertility. I think it's important to consider that some of the people that we're talking about when we talk about low-income, we're talking about high school girls and we're talking about college girls. And I think that that needs to be considered by the committee. I think it's unnecessary to fix or to change something that does not need to be changed, and I think the expertise and the experience in providing these essential services should be able to continue through family planning, and that we need to allow family planning...or, Family Health Services to do what it has been doing for the past 32 years. Thank you.

SENATOR JENSEN: Thank you, Stephanie. Any questions from the committee? Senator Howard.

SENATOR HOWARD: How long have you been providing this service?

STEPHANIE CLARK: In Tecumseh, for 32 years.

SENATOR HOWARD: And do you see a high rate of sexually transmitted diseases? I know I'm aware that here in Nebraska we have a very high rate of that occurring.

STEPHANIE CLARK: Yes. Yes.

SENATOR HOWARD: What percentage, if you would happen to know?

STEPHANIE CLARK: I do not know the percentage. We have

another speaker who is an LPN, and I think will address cost issues. She may be more able to answer that question.

SENATOR HOWARD: And would she also know the number of women that come into the clinic for this service?

STEPHANIE CLARK: She works there on a daily basis. I think she'd be able to give a better estimate...

SENATOR HOWARD: Okay.

STEPHANIE CLARK: ...as I'm a board member.

SENATOR HOWARD: Okay. Oh, I understand. Thank you.

STEPHANIE CLARK: Okay. Thank you.

SENATOR JENSEN: Any other questions? Thanks, Ms. Clark.

STEPHANIE CLARK: Thank you.

SENATOR JENSEN: Next testifier, please?

DEBI LEMPKA: (Exhibit 7) Good afternoon. I have copies. I'm the nurse. (Laughter) I'm Debi Lempka, L-e-m-p-k-a. I'm going to read a letter that my executive director from Family Health Services wrote for me to read because she can't be here. Family Health Services, Incorporated, has met the reproductive healthcare needs of low-income women in southeast Nebraska for 32 years. During that time, we have seen adequate funding turn into very limited funding for services to these women. These funds are crucial to the health of low-income women. These funds are also crucial to lowering the number of abortions, the number of unwanted children, and the number of children that need Medicaid services. Even with funding that has failed to keep up with inflation, Family Health Services, Incorporated, has managed to always serve all individuals seeking our services. In 1978, our anticipated funding was $74,295. In 2006, our anticipated funding is just under $100,000. While this is an increase in dollars, it most certainly does not account for 28 years of inflation. Services are offered on a sliding fee scale and even when an individual is not able to pay the fee that is applicable, they are not denied

services. We don't turn anybody away. The loss of these funds for Pap smears and treatment of STDs could be the funding decrease that would finally make us close our doors. Low-income women in southeast Nebraska are familiar with the services provided by Family Health Services. They are aware of clinic times, places, fee structures. They are even familiar with the staff, as there are times that all of us receive calls at home because a woman has panicked over a situation and just needs to know that we'll be there for her. Our staff are trained and have years of service in reproductive healthcare. Our staff also receives training to be nonjudgmental. This is vital to the success of our services. If our clients feel judged, they will not seek out the services they so desperately need. To spend additional funds to buy additional equipment and train additional staff would be dollars poorly spent. I believe that it is extremely important for these state funds to continue to be made available to Title X providers. Many of our clientele cannot afford to pay for these services, and I do not believe that they would be willing to seek assistance from a second provider. Many women, the only reason they seek reproductive healthcare is to access birth control. If they were able to get birth control without a Pap smear, they would never consent to it. The same can be said for STD treatments. If the individual is not having a perceived problem, they most likely would not seek out treatment. Our services help with finding these individuals and identifying STDs early. Without these state funds at family planning providers, we could see additional cases of STDs and additional cases of untreated STDs. It is extremely important that we remain committed to providing women with quality reproductive healthcare in settings where they feel comfortable and confident of the services they receive. In closing, I would like to state that Family Health Services stays committed to the mission it has had for the last 32 years. Family Health Services, Incorporated, will administer programs designed to assist residents of southeast Nebraska in obtaining and maintaining a healthy lifestyle for themselves and their families. Sincerely, Sharon Rickman, executive director.

SENATOR JENSEN: Thank you, Debi. Any questions? Yes, Senator Johnson.

SENATOR JOHNSON: I guess I'm confused, because the two proponents to start with said that they could integrate what you do into other services that are already there. And I guess I don't quite get...or can you explain further the need...where are they wrong, if they're wrong, and so on, so that we know that you should continue to exist if that's what the committee would decide?

DEBI LEMPKA: Okay. Oh, boy. I think...

SENATOR JOHNSON: Basically you've got to tell me the reason why you shouldn't be...

DEBI LEMPKA: Why we need to stay open...

SENATOR JOHNSON: Yes.

DEBI LEMPKA: ...and running? And to me, personally, it's for the teenagers and the college kids, because they don't want their parents to know they're coming and they don't want to be judged for coming. They're scared to come see us. They know we're there. They know we're not going to judge them. They know they have to come see one person, one nurse practitioner, for her Pap and her STD check and be done with it, get their birth control, or whatever they need, and they don't have to see anybody else. And that's a big service to those kids, because they are scared when they come to see us. Does that help?

SENATOR JOHNSON: It helps. But the one question I still have is this, is, the...where you provide services, yes; then I see, well, you provide the service here. What happens in these areas where you don't provide the services? What...?

DEBI LEMPKA: Like in what towns we don't provide services or...?

SENATOR JOHNSON: Yes.

DEBI LEMPKA: Well, in Tecumseh, we have four traveling clinics. We go to Beatrice, Tecumseh, Falls City, and Peru.

SENATOR JOHNSON: But my point is, is I think there was some

reference to how far people had to go or something like that.

DEBI LEMPKA: Right.

SENATOR JOHNSON: It is that correct, or...I mean, are you...?

DEBI LEMPKA: We try to make it as convenient as we can by traveling. We're the only family planning clinic that I know of that actually travels so we can have a clinic in those areas, so those people don't have to travel. So we try to make it convenient. I mean, but, if they live in Fairbury, their closest is Beatrice. And I don't know how far Fairbury is from Beatrice but that would be their closest.

SENATOR JOHNSON: But my point is, is that the proponents of the bill say that you're not needed because these other services are right there. See, I have to...

DEBI LEMPKA: Yeah, I see. I...

SENATOR JOHNSON: See, where I'm trying to get is, you're trying to tell us that you need to still exist, and I guess I'm giving you the opportunity to tell me why you still need to exist.

DEBI LEMPKA: We still need to exist so we can serve these people that don't qualify for Medicaid, for one thing,...

SENATOR JOHNSON: Okay, that's the sort of thing I'm talking about.

DEBI LEMPKA: ...don't have insurance. Okay. Don't have insurance, are scared to go see...like in our small towns, they won't go see their regular doctor because everybody knows everybody. But they'll come to us because they know we'll keep our mouths quiet, so to speak, and we're not going to tell anybody anything. So, I mean, that's why. There's a lot of people that don't qualify for Medicaid that come to see us and need our services. Otherwise, they'd be probably pregnant. Does that help?

SENATOR JOHNSON: I...you know, I'm trying to...

DEBI LEMPKA: I was told I was going to get to read a letter. (Laughter) Sorry. And I've only been at my job for one year, so I'm doing pretty good up here.

SENATOR JOHNSON: Well, and I hope you don't understand that I'm trying to browbeat you or anything like that.

DEBI LEMPKA: No, that's fine.

SENATOR JOHNSON: I'm trying to get so that the committee has an opportunity to balance out why the changes are needed as opposed to why, you know, they're not needed.

DEBI LEMPKA: Right. And I wish I had been working there for 10 years so I had more knowledge, too, but I've been there a year. So my knowledge is kind of limited, and I'm going to kill my boss when she gets back. (Laughter)

SENATOR JENSEN: Senator Howard and then Senator Stuthman.

SENATOR HOWARD: Thank you, thank you, sir. It sounds like Senator Jensen pretty much hit the nail on the head in terms of your population, the young girls. And it would be my guess that that's a group that has a strong incidence of the sexually transmitted diseases because college kids have...that's an activity they engage in, shall we say? (Laugh) Do you see...can you just give me some idea of the number of individuals that you see and maybe the percentage of this problem that you see? And you're doing a great job, by the way.

DEBI LEMPKA: Thank you. Yeah, you don't see the sweat. (Laughter) We see, I would say, and I'm going to reiterate that I'm new at my job, but I think it's close to 1,500 women a year. We're a small agency in Tecumseh, even though we go to outreach. We did over 500 Pap smears in the year 2004, and over 300 STD checks in 2004. And with our clientele, in Peru especially and Tecumseh, with the high school kids and the college kids in Peru, our STDs are actually pretty high for the number that we do. I would probably say we treat, if I had to guess, I'd say 50 percent. And that's high. We have really high numbers

down there. I mean, I just treated four in two days last week, so...

SENATOR HOWARD: And people feel comfortable coming to you. I'm sure you have a reputation as a location they can comfortably come to and receive the service.

DEBI LEMPKA: They know they can come. They know we're not going to tell anybody. And sometimes I get people just to come and talk, they're that comfortable. So that's a good thing.

SENATOR HOWARD: That's good. Well, I thank you, and I thank you for coming here today.

DEBI LEMPKA: Thank you.

SENATOR JENSEN: Senator Stuthman.

SENATOR STUTHMAN: Thank you, Senator Jensen. First of all, thank you for your testimony.

DEBI LEMPKA: You're welcome.

SENATOR STUTHMAN: And please don't feel bad that we're up here trying to point at you. The thing...the question that I have is, do you feel that young male or female are more comfortable to come to your establishment than they would to go to a public health department?

DEBI LEMPKA: I would say yes, just because I know who I am and I know what are our department does, and they know that. I mean, if there was a public health department that had somebody in there that they knew and trusted,...

SENATOR STUTHMAN: ...they'd probably go there.

DEBI LEMPKA: ...then it...it could go either way. But I mean, I would hope they would come to me. (Laughter)

SENATOR STUTHMAN: And how many groups like yourself are there throughout the state?

DEBI LEMPKA: That I don't have the answer to. I know about

me. And I mean, I know there's a family planning in Kearney and Fremont and Grand Island and...

SENATOR STUTHMAN: Columbus.

DEBI LEMPKA: ...Columbus and I'm not sure where else.

SENATOR STUTHMAN: Uh-huh.

DEBI LEMPKA: Oh, here's a list. (Laughter) Chadron, Hastings, Columbus, Lincoln, Norfolk, Fremont, North Platte, Gering, Omaha, Grand Island, and Tecumseh.

SENATOR STUTHMAN: There's probably more of those than there are the public health departments then, in other words. I think there would be.

DEBI LEMPKA: I would guess, yeah.

SENATOR STUTHMAN: Okay. Thank you.

DEBI LEMPKA: Okay.

SENATOR JENSEN: Senator Erdman has a question.

DEBI LEMPKA: Oh-oh. (Laughter) Okay. Here I thought I was going to get get up. Okay. Sorry. Okay.

SENATOR ERDMAN: I guess maybe I probably don't. (Laughter) For clarification, I think. Something was alluded to, that college kids engage in certain activities. And I think the correct thing is to say that some college kids do.

DEBI LEMPKA: Some. Yes, definitely some.

SENATOR ERDMAN: And I would probably be able to be supported by your testimony that those who don't probably don't show up in your clinic having STDs and other activities...other results of those activities. You said in your testimony that there are those in the medical community, maybe in Peru and other places, that potentially are releasing patient information because everybody knows everybody's business.

DEBI LEMPKA: Did I say that?

SENATOR ERDMAN: Is that speculation? Is that fact? I think your testimony was, we don't tell anybody what happens; they don't feel comfortable going to other places because other people know their business. And as I understand the medical profession, if that information is being released I would want to know if there are sanctions or others being brought against those in the medical profession. I'm just trying to understand...

DEBI LEMPKA: No, and it's more of a...my Aunt Bessie's mom works at that office, so I don't want to go there because if my Aunt Bessie's mom's friend sees me, she's going to tell my mom. Do you know what I mean?

SENATOR ERDMAN: And if Aunt Bessie's mom tells somebody, then she is under penalty of violating...

DEBI LEMPKA: Yes, she would be, but that...

SENATOR ERDMAN: I'm just trying to understand. If you know of a documented case...I come from a small town as well. I'm just trying to see...

DEBI LEMPKA: No, I...it's just what the girls tell me...

SENATOR ERDMAN: ...if it's hearsay.

DEBI LEMPKA: ...when they come in.

SENATOR ERDMAN: Okay. Thank you.

DEBI LEMPKA: Um-hum.

SENATOR JENSEN: Any other questions? Thank you, Debi.

DEBI LEMPKA: Oh, you're welcome. (Laughter) Thank you.

SENATOR JENSEN: Next testifier? Is there anyone else that wishes to testify after this? Could you make your way up towards the front please? Hi.

CATHI SAMPSON: (Exhibit 8) Good afternoon, Senators and

committee members. I am equally as nervous, and my name is Cathi Sampson, S-a-m-p-s-o-n. I work for Northeast Nebraska Family Health Services out of Fremont, which is a Title X-funded agency. And I, too, as well, was asked to read a letter for our director. (Laughter) I have tried to cut some of the information out that you've already received, so I will begin. To the members of the Health and Human Services Committee: My name is Deborah Bunn. I am the executive director for Northeast Nebraska Family Health Services, which is a Title X-funded agency. We provide reproductive health services in Fremont and in Norfolk. I am also the President of the Family Planning Council of Nebraska, which consists of ten Title X reproductive health agencies across Nebraska. We currently subcontract with Nebraska Health and Human Services System to provide Pap smears and sexually transmitted disease testing, and receive reimbursement for these tests. Our agency and the Council is strongly opposed to LB 1242 for a variety of reasons. First and foremost is that this bill could have a very negative impact on our ability to provide our clients with the best possible reproductive healthcare. In 2005, and hopefully these numbers will be of interest, our agency provided reproductive health services to 2,813 individuals. Of these clients, 2,189, which is 77 percent, had family incomes below 150 percent of the federal poverty level; with 1,182, being 42 percent, having incomes actually below the federal poverty level. Family planning clinics across the state are already serving the people that are targeted in this bill. Historically, the state's General Funds which have been earmarked for Pap smears and STDs have been dispersed by the Nebraska Reproductive Health Program to the Title X agencies across the state. These funds have always been depleted before the end of the year. It would make more sense to use the additional funds that it would take to implement LB 1242 and distribute them to the agencies that are already providing these services. The state funds that we have received have supplemented our dwindling federal Title X grants and have made it possible for us to provide important services such as Pap smears, breast cancer screening, abnormal Pap follow-up, and STD testing and treatment to a larger number of low-income clients. Without this funding source, many of the reproductive health clinics in Nebraska will not be able to continue to provide even basic services to the number of women that we now serve.

Our budgets are strained now with the cost to provide medical services and contraceptives. If we lose between 20 and 30 percent of our operating incomes by seeing these funds shift to the district health departments, some agencies could be forced to close some or all of their clinic sites. The result could mean that thousands of women across the state would not be able to utilize any of the important services that we provide. My feeling is that the costs that would be involved to implement changing the funding stream to the health departments would be substantial, and that the benefits of such a change would be nonexistent. Our agencies already possess the facilities, the medical expertise, and the equipment to provide these services. District health departments do not. Our agencies already have policies and procedures in place to provide these services. District health departments do not. Our agencies already have an established client base and an extensive referral network for those clients who require more comprehensive care. District health departments do not. Our agencies have community education and awareness programs that address these issues. District health departments do not. I understand and appreciate the importance of the district health departments and continue to work closely and cooperatively with the departments within my program area. I think that shifting these funds to them would be a very costly mistake, both financially and in terms of medical care to low-income families. I have seen no explanation of the reasoning behind this proposal nor a justification of the large expenditures that would be needed to achieve it. I urge you to leave these funds where they belong, with the reproductive health program that has consistently shown that they provide quality comprehensive services for the people in our state. And we thank you for the opportunity to address this issue.

SENATOR JENSEN: Thank you, Ms. Sampson. Any questions? Don't see any. Oh, excuse me. Senator Erdman.

SENATOR ERDMAN: I probably shouldn't ask you questions then about the letter, right?

CATHI SAMPSON: You know, you can if you want. I'll try my best.

SENATOR ERDMAN: All right. But I did miss the introduction and a couple...as I understand the bill, it would allow the department to expand who they're currently using the services for. The question that I don't...the comment that I don't understand that, I think, was repeatedly in the letter, was the cost...the shift in these funds would be a costly mistake because of the high cost of implementing this program. I have a copy of the fiscal note and I don't necessarily see anything that refers to that. It simply reappropriates the money that is currently there. Is there something I'm missing that I need to know?

CATHI SAMPSON: I think that what she's referring to is the cost to, say, go to a health department that has no medical clinic, that has no medical beds. Those...and I don't know if you have an expense sheet that shows you what it would cost for each of those sites to gain those things. We certainly didn't have that information. I also, if it's okay, in previous comment that was made with the nurse, I was wanting to share that sometimes it's not the staff but rather...if you go to a public health department that has, say, a dental clinic or immunization clinic, different sites and services such as that, it's not so much the staff that the young people are concerned about, but it's rather the other patients, maybe their dad, their uncle. You know, the whole family's low-income, so chances are their other family members are going to be receiving other services there, so they might wonder why their daughter or their son is there. And I just wanted to address that as well.

SENATOR ERDMAN: Okay. Thank you.

SENATOR JENSEN: Any other questions? I don't see any. Next testifier, please.

LAURA URBANEC: (Exhibit 9) Members of the Health and Human Services Committee, good afternoon. I would like to take this opportunity to address the members of the Health and Human Services Committee regarding LB 1242. My name is Laura Urbanec, executive director of Central Health Center. Central Health Center is a public health family planning clinic with offices located in Grand Island, Kearney, Lexington, and Bassett. We have been in existence since 1974 providing quality reproductive health services to

low-income and minority men and women. I am also a member of the Family Planning Council for the state of Nebraska. I'm here today to express my strong opposition to this bill being proposed and go inform you of a terribly misguided public health proposal this bill would establish. We have received funds since these funds were initially allocated to screen and treat cervical cancer and sexually transmitted infections. As a public health family planning clinic, these are the two primary health screening services we provide, in addition to breast screening...cancer screening and pregnancy testing. We have also realized a significant increase in cardiovascular and diabetes screenings in women 40 and over. Last year in 2005, Central Health Center saw over 5,300 individual patients, performed 3,417 Pap smears, and conducted over 5,700 sexually transmitted infection tests, 2,493 of these being for chlamydia testing, and over 120 of these chlamydia tests were positive. We also conducted chlamydia and GC testing on patients coming in for pregnancy tests only. In 2005, 14.3 percent of these walk-in pregnancy tests were positive for chlamydia and gonorrhea, and 6 percent of these were also pregnant and infected with chlamydia and gonorrhea. 46 percent of our patient volume was at 100 percent of the federal poverty level, and 25 percent were at 100 to 150 percent of poverty. And all females received their Pap smear screenings and chlamydia/GC screenings. Patients are seen per a sliding fee scale with 46 percent of our patient base living at 100 percent of poverty or less and receiving services at no fee and only a donation, if possible. Those at 100 to 150 percent of poverty receive their services at a 55 percent discounted sliding fee. And then on down to the categories of 35, 15, 0, to full fee. We have the expertise and operational protocols in place that provide quality services and have been doing so for over 30 years here at Central Health Center. We have established strong relationships with the local OB/GYN physicians in the communities where we are present for referrals beyond our scope of care. The two full-time nurse practitioners combined have over 30 years of expertise in practice. Both are trained and perform colposcopy with biopsy and cryotherapy for abnormal Pap smear follow-up and management. And both are trained sexual assault nurse examiners. To build and establish this service at the health departments would be, first, a costly duplication of tax dollars;

secondly, many health departments are not prepared to implement and handle this service; and thirdly, there are much more pressing issues for the health departments to address within their communities. Rather than being a direct provider of services, the health departments are challenged alone with coordinating and enhancing services already in existence and locating gaps not currently covered or addressed, and finding the ways to meet that need with the resources within their communities. With the increasing number of uninsured in our state since the year 2000, there are a multitude of community and health issues that will require the health departments to devote their attention to. Across the state of Nebraska there are multiple family planning public health clinics already working with the processes and protocols in place to meet the needs for screening for cervical cancer and chlamydia/GC infections, and have been doing so for many years. Some of these clinics will face closure without the state's reproductive health funds for Pap smear and chlamydia screenings. This will leave many individuals without an option to turn for screenings and contraceptive services. In some instances, it makes perfectly clear to consolidate and/or merge, whether to be in an effort to reduce administrative and overhead costs or simply to acquire or expand a service or product. In a perfect world, LB 1242 might be considered an option. But we're not talking about a product or warehouse of products and supplies. And as you are fully aware, we do not live in a perfect world. We have to consider the quality of life for low-income and minority citizens of the state for the present and their future. With this proposed bill, LB 1242, would be truly the opposite of providing and caring about the quality of health for low-income and minority Nebraskans. From past experience, and studies have indicated, that teens, in particular, will not seek services if required to present to a clinic where they are uncomfortable and confidentiality is not upheld. This would be the most troubling for the future of young teen women should they be left untreated for chlamydia and GC infection. Chlamydia is the most common and most invisibly sexually transmitted infection in the United States. Seventy-five percent of women and 50 percent of men who have chlamydia have no symptoms. For women, if left untreated, chlamydia can lead to PID, pelvic inflammatory disease. About 40 percent of women with untreated chlamydia

infections develop PID, and PID is the leading cause of infertility. Twenty percent of those who develop PID become infertile and will not be able to have children as a result of scarring or damage to cells lining the fallopian tubes. PID can also lead to recurrent episodes of PID, chronic pelvic pain, ectopic pregnancy, and/or cystitis. In addition, a woman with chlamydia is three to five times more likely to acquire HIV if exposed. For pregnant women it is important to detect the disease early to prevent babies delivered prematurely, stillborn, or having to cope with severe eye and lung problems at their birth. Remember I previously mentioned that in Grand Island we detected 6 percent of the walk-in pregnancy test patients as positive for chlamydia/GC. In men, untreated chlamydia can also make men sterile. If advancing this bill should occur, it would be responsible for increasing the number of young women and men coping with infertility in their future when trying to build their families and having babies. So those who are so intent on supporting this bill would actually be preventing pregnancy in married couples and the growth of young families. Should this bill advance and some clinics face closure, it will also mean that women and men will lose access to a stable source of care. The man and women we see are truly in need of our services. They are uninsured or underinsured, and they lack the knowledge to be informed on issues such as this to protect their personal health. They are not informed to understand the ramifications of this bill and lack that voice of power to speak on their behalf. I trust that you will not turn your back on the young men, and vulnerable, poor, and indigent. I strongly urge you to not advance LB 1242. Thank you very much for your time and consideration.

SENATOR JENSEN: Thank you, Laura. Any questions from the committee?

LAURA URBANEC: I'll try to answer them.

SENATOR JENSEN: Yes, Senator Stuthman.

SENATOR STUTHMAN: Thank you, Senator Jensen. Laura, do you feel that...well, first of all, your health department is just a health department for reproductive care for men and women.

LAURA URBANEC: Yeah. For family planning, right.

SENATOR STUTHMAN: It's not a district health department, it's not a federally qualified health department?

LAURA URBANEC: No, no.

SENATOR STUTHMAN: Okay. Do you feel that if you couldn't provide these services and they all had to go to a health department, would the health departments be able to handle all of those patients?

LAURA URBANEC: No.

SENATOR STUTHMAN: I mean, you know,...

LAURA URBANEC: Right. Right.

SENATOR STUTHMAN: ...they are almost overloaded already, the health departments.

LAURA URBANEC: Right. Because with Title X, we can see teens without parental consent. That means they can come to us in confidence and we can see and treat them. Health departments would not have that capability unless they are Title X-qualified. We can also...we make all options available for pregnancy, but we have...we can see them, we can get them treated sooner than...or if they were to wait and delay, and lead to infertility. And we also can provide plan B and contraceptive services to them.

SENATOR STUTHMAN: Okay. Do you feel that if your service wasn't available, some of these young individuals would not seek services?

LAURA URBANEC: Most definitely.

SENATOR STUTHMAN: And end up in an emergency room?

LAURA URBANEC: If it would lead to that extensive an infection, yes.

SENATOR STUTHMAN: Okay. Thank you.

LAURA URBANEC: You're welcome.

SENATOR JENSEN: Any other questions? Thank you for your testimony.

LAURA URBANEC: You're welcome.

SENATOR JENSEN: Anyone else wish to testify? May I see a show of hands, how many others? Okay, I'm going to insist that you not be redundant. I'm going to insist that it not be more than two pages. Please go ahead.

BARBARA HARRINGTON: (Exhibit 10) Hi, Senator Jensen and Committee. I'm Barbara Harrington and I am the executive director of the Hastings Family Planning. And I won't be redundant. I only had one small page to begin with. Because as a nurse and a social worker for the last 30 years dealing with a variety of...I worked with Child Protective Services in the state of Nebraska, Every Woman Matters program, and now Family Planning. It would just seem to me that, just from a medical point of view, that starting a medical clinic just to do a Pap smear and a very tiny amount, a very small part of a well woman check, would be completely redundant with state funding. It would seem to me that in order to set up a medical clinic, which is what the state of Nebraska requires of our Family Planning clinic, requires a fire marshal. The state Health Department, health nurses coming in to certify our clinic, $300 health license in order to do these Pap smears and provide these kinds of services, a whole myriad of requirements from the state of Nebraska for our medical clinic. And it would seem to me redundant and a very poor use of funding to try to reinvent the wheel and try to have those services provided at another location, and to actually start over again when Hastings Family Planning has been in existence since 1971. So we have 35 years of experience in our seven-...or, our eight-county area across south-central Nebraska. And setting up a medical clinic is something that has to be done in a completely quality manner. I certainly would not go to some medical clinic just to get a Pap smear unless it had a certain reputation, just as a woman. And I think, the way medical services are going toward the future, we're looking at more whole woman care or whole men care.

You don't go to a doctor specifically usually for one thing. And I don't think making women go to just have a Pap smear particularly makes any sense in terms of general health of a woman and her family. We're also seeing a new population of Hispanic and Vietnamese clients in our area. And this is a whole other population to be served. In order to do that, we've required translators, all kinds of specialized services, in order to make these services available and make it understood by our clientele. Actually setting up a medical clinic also requires medical services, instruments, autoclaves for sterilization, you know, medications, referral services. What about the health clinic, then, that detects the cancer in a woman, a cervical cancer? That's a whole other protocol of issues and physicians that are required to deal with that setting. Not all Pap smears turn out well. And, of course, you're looking for diagnostic. You're looking for the Pap smear that turns out to be cancer. Then it has to be referred on through a network of physicians, surgeons, and all kinds of things. And to me, we already have that framework set up in the state of Nebraska, and it would be, I think, poor use of state funding to try to reduplicate that. And I think that even in a duplication setting, it's not going to be as quality medical care. And I really feel that these kind of services...and we have lots of men. We have lots of guys coming to us, up to 40 years old. So sometimes this isn't all teens. These are 40-year-old men looking for a chlamydia or a gonorrhea test, and you can for sure tell that they're not going to go to their doctor. If they've had some kind of indiscretion or some situation where they need a gonorrhea test, they're not going to go to their doctor. And there's certainly a number of men in our clinic, in our eight counties, that come to us and that is why we are also here. It would also seem to me that keeping these things under one unit where we know there's quality medical services for the past 30 to 35 years, these are how we build strong families. And as my work as a nurse and a social worker in the state, the strong families are what we're really trying to build here. We're trying to have strong families that can adequately and economically support their families without getting them too large and then turning to the state looking for assistance. So we really want to assist families in planning their families for economic and all kinds of reasons. So I really testify as

an opponent to this bill.

SENATOR JENSEN: Thank you very much. Any questions from the committee? Thank you. Next testifier, please.

COLLEEN KENNEDY: (Exhibit 11) Good afternoon. My name is Colleen Kennedy. I'm a registered nurse of 31 years. I worked at Regional West Medical Center Hospital for 26 years, and now I practice public health nursing as a Title X program manager at Panhandle Community Services in Gering, Nebraska. My experience as a nurse in a hospital setting included intensive care, pediatrics, coronary care, child outreach, diabetic education, and hospital supervisor, and also home health. I draw upon these past experiences every day in my clinic to provide the best reproductive healthcare that we can. I thought I knew everything and I thought I had seen everything in my experience this 26 years, but when I came to Title X my eyes were opened widely. In fact, literally, my eyebrows hurt for a whole year. Okay? The clients that we see in our clinic are truly needy. And without this service, some of these clients are going to be diagnosed with cancer in the late stages. Some of them are going to suffer the consequences of an STD and perhaps spread disease to someone else, and some are going to become pregnant and perhaps experience child abuse, welfare, child neglect, abortions, and maybe perhaps premature babies. So how do I know they're needy? In 2006, our three clinic sites, one at Bridgeport, one at Oshkosh, and one at Scottsbluff/Gering, serviced 2,037 men and women. Seventy percent of these were at, not 250 percent of poverty, not 200 percent, not at 150 percent, but at 100 percent of poverty or less. Seventy-one percent had no public or private insurance. This is a huge percentage of our clients that came through the clinic that had no other means to get needed services. Without funding, we cannot provide the same services that most people in this room are able to obtain. Now yesterday, I...my educator called in sick so I had to all of a sudden plan to go to Morrill High School and do a 90-minute presentation. So I spent the day planning. I went to Morrill High School, and then I came back to the clinic to find that my LPN had checked out ill. And so I had two medication aides that were trying to see 36 clients, and they also need a nurse present. So I worked...I became another hat then, okay? I was the educator and then I

became the nurse and I worked until 8:00 p.m. And then between 8:00 and 9:00 p.m. I checked my e-mail to see that the bill here had been changed a little bit. So I thought, okay, we'll have all these other Title X people coming to testify and I don't need to come. I'm tired. Tomorrow morning I have to be at WNCC at 7:30 in the morning to give a two-hour presentation on STDs. Well, obviously, I'm here, and there might be three different...three reasons. First of all, I went to Enterprise and they were sympathetic to me and gave me a brand-new car for $15, unlimited mileage. So, I thought, okay. I'm paying for this out of my own pocket, so that's a pretty good plus. On Monday, I took the written speech that I had to a Toastmaster's organization. I didn't know any of them. And it was the same situation, two females and two males. They didn't know me. One of the guys had a Boy Scout uniform on, and I thought, oh, boy, okay, here we go. So I gave them my speech and they said, go, you need to go to the senators and you need to tell them about western Nebraska. So the third reason is that, as you can probably tell, I'm 100 percent client advocate. And I feel that the poor people who are in urban western Nebraska need a voice. That's why I'm here. So one thing I'm going to point out is that in western Nebraska, our public health district is in Hemingford, Nebraska. And Hemingford, Nebraska is a very small community. It takes me about an hour and forty-five minutes to get there. Okay, that's from Scottsbluff. If you live in Sidney, maybe it's three and a half hours to four hours to get there. Also in Hemingford, Nebraska, Western Community Health Services, which is Title X, has a Title X clinic in Hemingford. I do know...so that would be a duplication of services. They have it there. You were talking about distance. That's a long distance to go for people who maybe don't have transportation. In our clinic where we work, we provide transportation. If you can't get there, we'll come get you. When I first started working here five years ago, I saw the funding numbers and I saw, hmm, our clinic gets $62,000. There's this clinic in Columbus, Nebraska, that has, what, 30 clients, and they have...they're getting $380,000 or...I can't remember the numbers. So what that was is that when that clinic was starting up, they were given a huge amount of money to start up their clinic. So if we had to start over again with other clinics, we'd have to be putting out these large amount of dollars to buy equipment, to get

providers, supplies, everything we already have. So what else is in western Nebraska that could also do the same services? Would you have a community health department run by Bill Wineman? They see the jail. They so some wellness, and they do immunizations. I'm friends with him, very close friends with him. I know what they do. I know where they work. They have no place to do exams. They don't have providers, and they'd probably have to hire new people because they're just swamped already. What else is available? We have an OB/GYN clinic. I personally know because I wear the hat of the nurse on occasion, and I call for appointments for someone who's had an abnormal Pap smear. Oh, they have a bill here; they cannot come here. Okay? So, if I call in for someone who's pregnant and they need a doctor, well, they have to have some kind of coverage. Do they have Medicaid? Do they have any kind of coverage? So I know those obstacles in other places in my community. So two things I ask of you. Okay? First of all, that you'll look at the questions I did put on here that I didn't read to everyone else. Look at the data, I didn't read it all. And consider the impact that this will have on not only individuals and families but institutions as well as the health of the state. The second thing is, I would ask if the state would be proud of their Title X clinics. As you can see, I've worked a lot of other places through Regional West, and I've done a lot of things. But I'm proud of where I work. I'm proud of the staff that I have. They are awesome and they provide services to anybody who walks in that door. And I want to thank you for your time. Any questions?

SENATOR JENSEN: Thank you. Senator Howard.

SENATOR HOWARD: I'd like to comment just on the issue of transportation. I'm very impressed that you're able to provide that. Having worked in direct services for many years, I know what a barrier that can be to people getting to services. And if your clinic is able to do that, I really take my hat off to you, so thank you.

COLLEEN KENNEDY: Thank you.

SENATOR JENSEN: Thank you. Any other questions? I don't see any. Anyone else wish to testify? Anyone in

opposition? Anyone neutral testimony? Is there anyone else who wishes to testify in a neutral capacity? If you're going to testify, please come forward.

REBECCA RAYMAN: I had not planned to testify today. My name is Rebecca Rayman. My last name is R-a-y-m-a-n. I just came in to listen to the testimony but I would like to clarify some misconceptions. I am the Director of East Central District Health Department in Columbus, Nebraska. And we have a Title X clinic in the Health Department there. The misconceptions that I wanted to clarify were, we had never received any start-up funds from the state. I think the last person who testified was incorrect in her assumption that we did so when we started our Title X clinic. And I also wanted to say that district health departments do provide quality services in the services that they provide. And I just wanted to add that, and so I'm just here in neutral status.

SENATOR JENSEN: Thank you, Becky. I can testify to your services. Anyone else wish to testify? Are there any questions, excuse me, for Ms. Rayman? Thank you for coming.

REBECCA RAYMAN: Thank you.

SENATOR JENSEN: Any other neutral testimony? Seeing none, Senator Foley?

SENATOR FOLEY: Thank you again, Mr. Chairman, members of the committee. Mr. Chairman, sometimes because of our bill hearing process, there can be a very serious disconnect between the testimony you hear and the actual legislative language that's being considered. And that's through no fault of any of the testifiers. They simply don't have access to the latest amendment. What they're looking at is the green copy of the bill that was submitted, what, six weeks ago or whenever it was. And I'm afraid that's what's happened here. The testifiers are not acknowledging because they didn't know, I presume, that all of the existing providers, all of the existing providers, continue to be eligible. This does not knock them out of the program. This simply expands the number of providers who can be eligible. That's a very key point that was not offered to the committee, and I want you to understand that. Also, you

heard a lot of testimony about all the Title X services that are being offered. Title X is a federally funded program. There is no state match. This bill does not, in any way, touch the Title X program. All those Title X funds continue to flow. So, with that clarification, Mr. Chairman, again, thank you for your time and I appreciate your attention.

SENATOR JENSEN: Thank you. Any questions of Senator Foley? Thank you very much. That'll close the hearing on LB 1242.

LB 854

SENATOR JENSEN: Senator Cunningham is not here but his very able assistant is to introduce LB 854. Welcome, Kim.

KIM DAVIS: (Exhibit 1) Senator Jensen and members of the Health and Human Services Committee, my name is Kim Davis and I'm the legislative aide for Senator Doug Cunningham who represents the 40th District. Senator Cunningham wanted me to offer his regrets to the committee for not being here to introduce the bill but he had a previous commitment and is out of state today. I'm here to introduce LB 854, which would establish the Long-Term Care Partnership Program. The purpose of this program is to provide incentives to individuals to purchase long-term care insurance by allowing persons to exhaust qualified private long-term care policy benefits to protect an equivalent value of assets and still meet Medicaid's financial eligibility requirements should they eventually require these services. The intent behind partnership programs it to promote individual responsibility for long-term care planning and to reduce reliance on government-sponsored care. Senator Cunningham's interest in the Long-Term Care Partnership Program stems back to his second year in office. He attended a conference and learned of the long-term care partnership program in Indiana. The Indiana plan was one of four in existence prior to the passage of the federal Omnibus Budget Reconciliation Act of 1993, which prohibited the development of additional partnership programs. At that time, legislation was pending on the federal level that would eliminate the restriction on additional partnership programs. Senator Cunningham monitored the legislation, and then in 2004 he noticed that

several states memorialized Congress to remove the restriction on asset protection programs. Other states were either creating or working on their own long-term care partnership programs in the event that Congress removed the restriction. Last year, Senator Cunningham introduced LB 272, which directed the Nebraska Health and Human Services System and the Department of Insurance to prepare a plan for a long-term care partnership program in Nebraska by December 1, 2005. LB 272 was amended into LB 279, the Medicaid reform bill, and was passed. Senator Cunningham also introduced LR 9, which urged Congress to amend the Social Security Act by deleting May 14, 1993 as a deadline for approval by states of long-term care partnership programs. LR 9 was also approved by the Legislature. The report, as required under LB 272, has since been completed by HHS and the Department of Insurance. Senator Cunningham wanted to express his thanks to HHS and the Department of Insurance, as well as the Governor's Policy Research Office for their work on this issue. The language in LB 854, as introduced, was taken from legislation recently passed in Oklahoma and Georgia creating long-term care partnership programs. However, since the bill's introduction, legislation was passed last week on the federal level, and the President just signed it today at 3:25, eastern time, allowing states to create their own partnership program by simply filing a Medicaid plan amendment. Therefore, legislation containing detailed language pertaining to the partnership plan isn't necessary. Because of this, Senator Cunningham has asked me to offer this amendment to the committee today that was passed out. It simply states that the Department of Health and Human Services Finance and Support shall file a state plan amendment with CMS pursuant to the requirement set forth in the Social Security Act. The amendment, as well as the original bill, strike the sections of statute that created the Long-Term Care Partnership Program Development Act, which called for the development of a plan that has since been completed. Without LB 854, the department may file a state plan amendment to develop a long-term care partnership program in Nebraska. With LB 854 the Department shall file a plan amendment. With term limits pending, Senator Cunningham wants to make sure that the partnership program is implemented in Nebraska. However, since HHS is already authorized to file the state plan amendment, it is Senator

Cunningham's intent that the department begins work on the amendment as soon as the necessary information is received from CMS. This would help expedite the process and shorten the time period in which potential purchasers would have to wait to purchase a partnership policy.

SENATOR JENSEN: Thank you, Ms. Davis. Any questions? Seeing none, thank you. Anyone wish to testify in support? Welcome.

DICK NELSON: (Exhibit 2) Good afternoon, Senator Jensen, members of the committee. I'm Dick Nelson, N-e-l-s-o-n. I'm the Director of the Department of Health and Human Services Finance and Support, and I am here to testify in support of LB 854, the Long-Term Care Partnership Program Act. As Ms. David indicated, the passage of this legislation will direct HHSS to establish a partnership program between Medicaid and the long-term care insurers and allow individuals to access Medicaid without having to dispose of personal assets to the extent these individuals have utilized private insurance benefits to cover their long-term care expenses. I will skip over some of my testimony, since it's already been covered by the introducer. But we did want to make clear in the preparation of our report pursuant to LB 709 that we evaluated the programs already operating in the states of California, Connecticut, Indiana, and New York, and also considered input from the insurance industry, public policy analysts, and advocates. While these programs have not been in place long enough to provide a definitive evaluation of the impact on Medicaid, the concept of long-term care partnerships offers promise as part of a comprehensive approach to encourage personal responsibility for long-term care planning rather than to rely on government assistance. With the enactment of the Budget Deficit Reduction Act, the barriers to the implementation of such a program have been removed. With the amendment that was offered to the bill today, we believe that there is sufficient authority to proceed with the establishment of such a program in Nebraska through the filing of a state plan amendment. I would be very glad to answer any questions.

SENATOR JENSEN: Thank you, Director Nelson. Any questions? Senator Byars.

SENATOR BYARS: Just a comment, Dick. Thank you. I've long been an advocate for this. I think it's a step we need to take and we need to move in this direction. I also want counsel a bit, being in a family that's going through...that has had long-term care insurance in our family and all of a sudden trying to access the benefits to that long-term care insurance, which is horrible. And I know we need to address those issues also. So I hope as we establish rules and regs, and as we do things moving in this direction, we keep in mind the people who are purchasing this insurance, many times very vulnerable, aging, and might not have anyone to advocate for them. And I think it's our obligation as good public policy to make sure we have in place rights of appeal and areas that they can move in.

DICK NELSON: Thank you very much, Senator. I appreciate your comments.

SENATOR JENSEN: Any other questions? Yes, Senator Erdman.

SENATOR ERDMAN: Director Nelson, it appears that the law has been in place for 20 minutes, so have you begun the process that Senator Cunningham asked for in his opening? (Laughter)

DICK NELSON: We have read the conference report on the Deficit Reduction Act, Senator, so we understand the direction that we need to take. Very interestingly, the statute itself spells out in great detail the requirements of the program and, with the exception of some guidance from CMS, no regulations would actually be needed to actually begin identifying the policies and moving them forward. We have also talked with centers for Medicare and Medicaid services to understand the time lines they have for the guidance to the states. So, yes we are, and I was very impressed that we had the report of the signing 20 minutes after it occurred.

SENATOR ERDMAN: That is very impressive. Thank you.

SENATOR JENSEN: Thank you. Anyone else wish to testify? Please come forward. Is there anyone else other than Mr. Dunning? Okay, I see one, two, three. Thank you.

Eric.

ERIC DUNNING: Good afternoon. My name is Eric Dunning. I'm a lawyer for the Nebraska Department of Insurance. My name is spelled D-u-n-n-i-n-g. I'm here on behalf of Director Tim Wagner who is unable to be with you today. However, we're here to testify in support of LB 854, and we'll be very happy to provide whatever assistance HHS needs to implement the program.

SENATOR JENSEN: Thank you, Mr. Dunning. Any questions? Thank you for appearing. Next testifier, please.

BRENDON POLT: Good afternoon, Chairman Jensen, and members of the Health and Human Services Committee. My name is Brendon Polt, that's P-o-l-t. I'm the assistant executive director of the Nebraska Health Care Association, appearing in support of LB 854. And I have...I'll offer my testimony and cut my oral testimony very short. Two points I wanted to make. Regarding the existing four states that have partnership programs, I did speak with them to ask their perceptions of the effectiveness of the incentive in encouraging people to buy policies, and they did unanimously indicate that after they created these policies in the nineties they did see an increase in purchases. And most of these states do have significantly higher than average market penetration for long-term care insurance purchases. So these programs do seem to be effective. The other point I wanted to make was that certain populations of people are not eligible for long-term care insurance, either because existing health conditions or for the complications that Senator Byars raised, and older populations long-term care insurance care premiums can be quite expensive. So Senator Jensen has a bill, LB 966, that is pending in the Revenue Committee to create long-term care savings plans. And I guess we would like the department to take a look at...or the committee, whether or not these expenditures for long-term care costs could also have that same asset disregard, because it seems conceptually that if someone's planning for their long-term care, there should be potentially that same advantage for people that can't buy long-term care insurance. With that, I would answer any questions.

SENATOR JENSEN: Any questions of Mr. Polt? Thank you for testifying. Next?

TERRY HEADLEY: (Exhibit 3) Good afternoon, Chairman Jensen, and members of the committee. My name is Terry Headley, and that last name is spelled H-e-a-d-l-e-y. I'm the president of Headley Financial Services in Omaha, and I'm here today representing three different insurance industry trade associations: the National Association of Insurance and Financial Advisors of Nebraska; our conference, the Association of Health Insurance Advisors; and the Nebraska Association of Health Underwriters. All three of these organizations are comprised of professional insurance agents and financial advisors who market a wide range of insurance and financial products to Nebraska consumers, helping our citizens to set and achieve their financial goals. The membership of all three of the associations wholeheartedly support LB 854 and any corresponding amendments and would urge the committee's unanimous vote to move the bill forward, and any amendments thereon, at the earliest opportunity. Since we're 20 minutes into the signing of the deficit reduction reconciliation bill, which effectively lifts the moratorium on Medicaid Long-Term Care Partnership Program, and reauthorizes all states the authority to grant exclusion from the spend-down rules while providing asset protection or asset disregard equivalent to the benefits received under a qualified long-term care insurance policy, which would have to comply with the NAIC, the National Association of Insurance Commissioners model regulations and the HIPAA rules. I really believe that passage of LB 854 and any amendments thereto is a perfect example of a creative public/private sector initiative that will be beneficial for Nebraska taxpayers and consumers. The long-term care insurance policies will have to meet, again, the HIPAA rules and be tax qualified. Our organizations have always been on record for many years to provide all types of incentives such as tax credits and above-the-line deductions to encourage consumers to acquire long-term care insurance. The policies will provide substantial Medicaid savings over the long term. I do have statistical data on the four demonstration states that have been in the partnership act since 1993, and you will note the substantial Medicaid savings that have accrued to those states by implementation

of the Long-Term Care Partnership Act. Also, I believe that enactment of LB 854 will prove as a disincentive for our citizens to take extraordinary measures to go through the infamous spend-down to reduce accountable assets in order to meet Medicaid eligibility rules. We look forward and would welcome the opportunity to work not only with the committee as a resource, and the Department of Insurance, for the successful enactment and implementation of the Long-Term Care Partnership Act here in Nebraska. So thank you, Mr. Chairman.

SENATOR JENSEN: Thank you, Mr. Headley. Any questions?

SENATOR JOHNSON: Jim?

SENATOR JENSEN: Yes.

SENATOR JOHNSON: Just one quick question.

TERRY HEADLEY: Yes, sir.

SENATOR JOHNSON: Since the cost of this program is one of the major costs to the state of Nebraska, are there any projections from these demonstration projects as to what we might expect as a savings?

TERRY HEADLEY: There has not, to my knowledge, been any proformas in terms of projected numbers on the specific Medicaid cost savings that would accrue to Nebraska. You can see the four states that the director mentioned earlier: California, Connecticut, Indiana, and New York, and their respective cost savings in their Medicare programs, many in excess of the $10 million mark. The interesting statistic in there to me is the number of consumers who have entered into long-term care insurance policies...who have purchased long-term care insurance policies, that were eligible for participation in the Long-Term Care Partnership Act, and very few, because of the asset protection or asset disregard, that ended up actually going onto Medicaid. In most states, it was less than 30, because the benefits paid out under the long-term care policies were sufficient to carry them all the way through, and many of them, of course, deceased while they were on claim and everything. So the numbers are staggering. This is definitely a win-win-win

all the way around for the state of Nebraska and the taxpayers and the industry. So, thank you.

SENATOR JOHNSON: Thank you.

SENATOR JENSEN: Thank you. I would share, I think, Senator Byars' comments, however, there is a lot of companies out there selling very good product and there are some that I hope that we can somehow protect our citizens that perhaps shouldn't be buying that product.

TERRY HEADLEY: Yeah. I concur, Senator, and that is something that our organizations are equally concerned about. And please be assured that we are monitoring that activity very carefully. And the one nice thing about the policies that will be eligible for the Long-Term Care Partnership Act will have to meet the very specific guidelines of the model regulation as put forward by the National Association of Insurance Commissioners, so they will have to meet certain minimum daily benefit requirements, certain benefit period requirements, also contain some inflationary protection rider on the policies.

SENATOR JENSEN: That's good to know. Thank you.

TERRY HEADLEY: Thank you.

SENATOR JENSEN: Next testifier, please? Welcome to the Health Committee.

JAN McKENZIE: Senator Jensen, members of the Health and Human Services Committee. For the record, my name is Jan McKenzie, spelled M-c-K-e-n-z-i-e. I'm here today in support of LB 854 and the proposed amendment on behalf of the Nebraska Insurance Federation. We have supported Senator Jensen's efforts in the past to incent the purchase of long-term care insurance and fully expect to be involved in continuing ways as we move toward the partnership. I would answer questions you might have.

SENATOR JENSEN: Thank you. Any questions for Ms. McKenzie? Seeing none, thank you.

JAN McKENZIE: Thank you.

SENATOR JENSEN: Anyone else wish to testify in support? Anyone in opposition? Anyone in neutral testimony? That'll close the hearing, since only the senator can close.

LB 1248

SENATOR JENSEN: And we'll open on LB 1248. Senator Byars?

SENATOR BYARS: LB 1248, Senator Jensen, welcome to the Health and Human Services Committee.

SENATOR JENSEN: Good afternoon, Senator Byars, members of the Health and Human Services Committee.

SENATOR BYARS: I want you to be sure to tell you to keep your testimony brief and don't be redundant. (Laughter)

SENATOR JENSEN: Thank you for the reminder, Senator. (Laughter) And I'll just do that. And I'm not going to go into some of the other things. You all remember the sheets that we had passed out on Medicaid. And we have seen since the 1984 where Medicaid at one time was 6.7 percent of our budget in the state of Nebraska, and now it's about 18 percent of our state budget and continuing to go up. Along with that, and Senator Byars, you just returned, I know, from Washington, but I did receive just today the letter or the packet from Joy Wilson, who...NCSL. And opened it up and the very first thing it says is, entitlement spending, the 2007 budget proposes to reduce Medicaid by $12 billion over five years using a combination of legislative and regulatory initiatives. It also proposes to reduce growth in the Medicaid program by $36 billion over the same period. And that just further tells us that I don't believe the state of Nebraska has a real choice. And in order for those citizens who are receiving Medicaid at this present time, if we don't protect them, that we will see some of our fine citizens being reduced in services. And that is really the reason for LB 1248, which is a follow-up to LB 709 last year that was passed by this Legislature, and we began a long, year-long process of Medicaid reform and two designees were appointed. And I'm going to ask that each one of those speak this afternoon,

and I'll shortly close at least my opening remarks. And then I would like to ask even Senator Don Pederson, who was a Chairperson of the Medicaid Reform Advisory Council, to say a few words. And he's got an amendment that he would like to propose. So after I step aside, I would like to ask Jeff Santema, legal counsel to this committee, to provide an overview, then ask Don Pederson to give a short presentation, and then followed by Dick Nelson, Director of Health and Human Services Finance and Support. And because of the large number of bills and the number of people that wish to testify, I will stop my remarks there. I'd be glad to answer any questions that anyone might have, however.

SENATOR BYARS: Any questions of Senator Jensen? I assume you would like to reserve the right to close?

SENATOR JENSEN: Yes, thank you.

SENATOR BYARS: All right. You're deferring to Mr. Santema first?

SENATOR JENSEN: Yes.

SENATOR BYARS: Mr. Santema?

JEFF SANTEMA: Thank you, Senator Byars, and members of the Health and Human Services Committee. For the record, my name is Jeff Santema. I'm legal counsel to the Health Committee, also appointed by Senator Jensen as one of the designees charged with developing a Medicaid reform plan for the state of Nebraska. And I come before you today in my capacity as legal counsel to the committee to, as briefly as possible, explain the basic provisions of LB 1248 as introduced, and to raise some additional issues for the committee's consideration, as the committee further deliberates the legislation. The bill, as Senator Jensen alluded, was introduced pursuant to LB 709, passed by the Legislature in 2005, the Medicaid Reform Act. The bill as introduced represents a proposed outline for a proposed recodification of Medicaid statutes; and secondly, the purpose of the bill is to facilitate implementation of the Medicaid Reform Plan prepared pursuant to the Medicaid Reform Act. Additional amendments may be needed to be incorporated to complete the recodification. The bill was

drafted by legal counsel to the committee in consultation with Dick Nelson, Director of HHS Finance and Support. Essentially, in the broadest overview, LB 1248 takes existing Medicaid statutes found in Chapter 68, Article 10, and transfers those statues to Article 9 of Chapter 68. But the substantive changes that are contained in LB 1248 focus primarily on the core provisions of current law that authorize the Medical Assistance Program. In the summary of the legislation that you have received, there is a copy of the section summary of the bill, which gives you an outline of how the recodification was approached in the introduced version of LB 1248. And I'd just like to very quickly, Mr. Chairman and Mr. Vice Chairman, to briefly highlight some of the provision of the bill that are more substantive, both for the sake of the record and for members of the public who are here today who would like to testify concerning the importance of Medicaid reform. Essentially, Sections 1 to 2 of the bill name the new act, called the Medical Assistance Act, and it makes technical changes to the section which establishes the Medical Assistance Program known as Medicaid. Section 3 adds new provisions relating to Medicaid public policy. If I may, the bill as introduced states it's the public policy of the state of Nebraska to provide a program of medical assistance on behalf of eligible low-income Nebraska residents that cooperates with public and private sector entities to promote the public health of Nebraska residents; assists eligible recipients to access appropriate and necessary healthcare and related services; encourages personal responsibility and accountability for the appropriate utilization of healthcare and related services; cooperates with public and private employers and private sector insurers in providing access to healthcare and related services for Nebraska residents; is appropriately managed and fiscally sustainable and qualifies for federal matching funds under Title XIX and Title XXI of the Federal Social Security Act. Section 3 also provides that the Medical Assistance Act and the Medical Assistance Program do not create a separate state entitlement, separate, that is, from the federal entitlement created in federal legislation. Sections 4 and 5 simply define terms and make technical changes to incorporate federal law by reference. Section 6 is...are new provisions adding duties for the Department of Health and Human Services, and it's intended in this recodification to combine various sections

which right now refer to the duties of the Health and Human Service System with respect to the program. Section 7 essentially discusses funding for the Medical Assistance Program and it requires that Medical Assistance funding be based on an assessment of General Fund revenue and the competing needs of other state-funded programs. It permits greater flexibility in the payment of medical assistance, codifies Medicaid disproportionate share payments, and prohibits the payment of medical assistance directly to eligible recipients. Section 8 relates to Medicaid-covered services. It makes technical corrections to Section 68-1019 and incorporates provisions in existing law relating to payments for schools and the issues for Medicaid administrative activities. The bill requires the Medical Assistance Program to cover federally mandated services...continues to require the program cover federally mandated services but deletes the current list of mandatory services contained in statute and permits coverage for optional services, which is the current practice. Section 8 also requires Medicaid-covered services to be generally reflective of and commensurate with group health insurance coverage provided by public and private employers, and private sector insurers in this state, as determined by the Director of Health and Human Services Finance and Support and the Director of Insurance with due consideration to the needs and resources of eligible recipients. This is new benchmarking language that's been added to LB 1248. Section 9 relates to limitations and consolidates provisions related to limitations on Medicaid-covered services and essentially combines provisions and incorporates and deletes various provisions of Sections 68-1019 to 1019.09. The bill continues to require the Department to establish a schedule of premiums, copayments, and deductibles for goods and services provided under the Medical Assistance Program and to provide limits on the amount, duration, and scope of goods and services recipients may receive under the program. The bill also permits, in new language, the department to establish requirements for recipients of medical assistance as a necessary condition for the continued receipt of such assistance including but not limited to active participation in care coordination or appropriate disease management programs and activities. The bill continues to require reporting prior to adoption and promulgation of rules and regulations to establish limitations on covered services but

does make changes in the current law related to the timing of those rules and regulations and their implementation. The reporting in LB 1248 must summarize the content of proposed rules and regulations and contain a detailed analysis of their projected impact on recipients of medical assistance and medical assistance expenditures. The Department is required to monitor and report to the Governor and the Legislature on the effect of limitations on eligible recipients and medical assistance expenditures and activities of the Department to enforce such limitations. Section 10 relates to eligibility for medical assistance and just makes technical changes to Section 68-1020, but the bill substantively also permits the Department to establish a separate Children's Health Insurance Program as allowed under Title XXI of the Federal Social Security Act, for children under 19 years of age with family incomes from 150 percent to 185 percent of the federal poverty level. Section 11 relates to application for medical assistance and eligibility determinations under the Medical Assistance Program and contains provisions transferred from Section 68-1020. The bill requires applications for medical assistance to be filed with the Department. Applicants for medical assistance are entitled to notice of denial or discontinuation of eligibility and denial or modifications of medical assistance benefits. Decisions of the Department may be appealed in accordance with the Administrative Procedures Act. Sections 12 to 21 transfer and make technical corrections to sections related to assignments of rights, the state recovery garnishment and spousal impoverishment. Sections 22 to 29 transfer and make technical corrections to coordination of benefits provisions that were just enacted in 2005 by the Legislature with LB 589. Sections 30 to 82 of LB 1248 transfer and make technical changes to the Medicaid False Claims Act, which was adopted by the Legislature in LB 1084 in 2004. Sections 44 to 80 make harmonizing changes to other Medicaid-related statutes. The bill has an operative date of July 1, 2006 and repeals the original sections. Sections 83 and 84. Section 83 outright repeals several sections of existing law. And Section 84 contains an emergency clause. So, Mr. Chairman, Mr. Vice Chairman, members of the committee, to summarize the substantive provisions of LB 1248, recodifies Medicaid statutes to Chapter 68, Article 9 and names a new act, the Medical

Assistance Act. The bill as introduced adds public policy provisions. No new state entitlement is created. The bill adds department duties and, as I mentioned, two substantive additions require biennial budget and program review by the Department. The bill requires development of recommendations for further modification or replacement of defined benefit structure of the Medicaid program. That report is due on or before December 1, 2008. And I did not describe those provisions in greater detail earlier. These are the two substantive provisions that were added in the new section related to department duties. The legislation also permits greater flexibility in the payment of medical assistance benefits. It requires that medical assistance be generally reflective of and commensurate with generally available group health insurance policies with due consideration to the unique needs and resources of eligible recipients. It allows the Department to require participation and care coordination or appropriate disease management programs and activities. The bill permits the establishment of a separate Children's Health Insurance Program for children under 19 years of age with family incomes of 150 percent to 185 percent of the federal poverty level. As I mentioned, members of the committee, the two main purposes of LB 1248, as introduced, were essentially to accomplish a recodification of Medicaid-related statutes and to facilitate implementation of the Medicaid reform plan submitted on December 1 of last year. On its face, the bill accomplishes both of those purposes. But there are other considerations that I just wanted to make the committee aware of as the committee further discusses the bill and further hears testimony regarding the legislation today on Medicaid reform and then has further deliberations about the legislation. One issue is the issue of ongoing oversight. To what extent would the committee like to provide for additional measures in oversight of the Medicaid reform, which, in LB 709 Medicaid reform was made a very high priority by the Governor and by the Legislature. That oversight could take many different forms, whether it be the establishment of a Medicaid reform commission or some type of oversight body, or by some other means. The second additional consideration to raise before the committee is the level of discretion given to the department in legislation, and the degree to which the health committee wishes to make changes in the amount of discretion that's

given to the Department in the legislation as introduced. Another additional consideration for the committee is the extent to which the legislation as introduced incorporates provisions of the Medicaid Reform Plan. The legislation as introduced was intended to codify necessary legislation for implementation of the Medicaid Reform Plan but did not include all provisions or recommendations of the plan that did not require legislation. So an additional consideration for the committee will be, to what extent do other provisions of the plan or the plan generally need to be incorporated by reference or by some other means directly into the legislation? And then, finally, an additional consideration for the committee would be how the committee would wish to address provisions that are deleted or outright repealed and their impact on the legislation as introduced. For example, whether the committee wishes to consider the fact that although mandatory services continue to be required, the list of those mandatory services, which as I understand, since the legislation was actually introduced, actually exceeds what the federal law might mandate. And your fiscal note, I believe, makes reference to that. Also, the issue of rules and regulations, for example, and the timing of reporting on rules and regulations. Public information regarding Children's Health Insurance Program and related issues. So with this explanation, Senator Byars and members of the committee, with the acknowledgment of the privilege that it has been to have been involved as one of the designees involved in the Medicaid reform process and charged with, with Director Nelson, with the responsibility of developing a Medicaid reform plan, listening was a critical element of the reform process under LB 709, and the listening process continues, and I know it's just as equally important now. And so, with that, Mr. Vice Chairman, I trust that this is a sufficiently brief overview of the legislation itself and providing a summary, setting the stage, if you will, for other considerations that relate to the legislation which would be of interest to the committee. Thank you Mr. Vice Chairman.

SENATOR BYARS: Thank you, Mr. Santema. I appreciate your excellent presentation. Senator Erdman.

SENATOR ERDMAN: Jeff, I publicly want to thank you for your efforts that you have undertaken in the last year in

traveling the state and being willing to have those listening sessions, essentially when called upon, and I wanted to thank you for the time and effort that you invested in creating the reform plan, and know that the work is not completed but yet this is a continual process. And I think we, as a committee, and the state, as a whole, is well served by your efforts and are grateful to have your service.

JEFF SANTEMA: Thank you, Senator.

SENATOR BYARS: Any other comments of the committee for Mr. Santema? I know I will as we go on. I do have some concerns with some of the language and extremely technical and extremely difficult to totally understand how each piece fits one with the other. As I listen to the committee hearings and the talks from one of the members, Mr. Sensor, relative to defined benefits and how that fits in to what we're doing. And here I see that we asked for further modification or replacement of, but then we go into language that requires Medicaid-covered service be generally reflective of and commensurate with group health insurance coverage. And I mean we're talking about studying in one place and telling in another basically to do a defined benefit. So I'll have some questions but I'll echo what Senator Erdman says. I think the work that you and Mr. Nelson and the committee have done has been yeoman-like, and we'll just see where this study goes. Thank you, Jeff. Any other questions? Okay. Senator Pederson, are you going next?

SENATOR D. PEDERSON: I'd like to, yes, please.

SENATOR BYARS: Good. We'd be glad to have you. Remember the rules that apply in the Appropriations Committee also apply here. (Laughter)

SENATOR D. PEDERSON: I forgot to turn off my cell phone. (Laughter) No, I turned it off.

SENATOR BYARS: Welcome, Senator Pederson.

SENATOR D. PEDERSON: (Exhibit 4) Thank you. Chairman and Vice Chairman, it's a pleasure to be here with you today. I

think...Joan, do you have a copy of this amendment on your file? Okay. As you know, I'm appearing here today as a representative of what we call the Council for Task Force Reform, and that was spearheaded by Senator Erdman and other members of the Health Committee, and it came amount into LB 709. As a result of that, the Governor and Senator Jensen appointed representatives to serve on what I would call a task force but we called it a council. And we met during the summer beginning in June and on through December, and then, as you recall, I appeared before you and presented the findings of our task force at that time. Let me remind you of who was on this task force. As I say, I served as chair of that task force. Kathy Campbell served as vice chair, and she is with Cedars Home for Children. State Treasurer, Ron Ross, was on that. Pat Snyder, Nebraska Health Care Association; Wayne Sensor, CEO of Alegent Health Systems; Tony Sorrentino of SilverStone Group; Cory Shaw, who is financial officer for the University of Nebraska Med Center; Steve Martin, who is the CEO of BlueCross BlueShield; Gayle-ann Douglas of Douglas Manufacturing; and Mary Lee Fitzsimmons, Iowa/Nebraska Primary Care Association. And this committee met by telephone last Friday after we had had the opportunity to review LB 1248, and so I'm here today to represent the expression of that group at this time. We recognize that in LB 1248 there are certain requirements of the department, but part of what we did in our task force, we made certain recommendations. And many of these recommendations I know are things that are already available for the Health and Human Services Agency to carry out, but they're not reflected in the bill itself. And so I'm suggesting that I would like to submit...your clerk already has a copy of an amendment that I'm suggesting to you be added as a committee amendment to this bill, recognizing that what we are really referring to at this time is not law, per se, of something to do, but it states an intent. And I think it was the unanimous feeling of the council that the efforts that we went to in discussing all of these matters, the public hearings and things of that nature, are not reflected in LB 1248. So what we intended and hoped for was the language be added that would show the intent that was resulting from the committee's hearing. I see many people in this room today that attended a lot of our sessions, including members of this committee that attended that. So you know that we pretty conscientiously

went into attempting to help do what we could to maybe slow up the growth of Medicaid. And we know, and I know certainly from the Appropriations Committee, it's a continuing problem. And we want to make certain that we have enough money to provide care for the people in our state that need it. And we have to manage that very carefully. So let me just suggest to you in general terms what this amendment does, and then you can examine it, and if you find it appropriate, perhaps consider that as a part of a committee amendment. The first thing that we've done--our council that I'm talking about is in the past tense now because we're virtually out of business--so the first thing that we suggest is that there be a continuation of this type of council. We've called it Medicaid Reform Commission this time. But it would be, in essence, the same sort of thing, for you to appoint, or the appropriate parties appoint, people who could carry out the same sort of functions that we did acting as a liaison with the Health and Human Services Committee. I know, from talking to both Jeff Santema and from talking to Director Nelson, that they found it very helpful to have the input that came form this council. And so I think we need to continue that council, and somewhat set forth in this the same sort of makeup of a council, so that you continue to have the dialogue. And it ties in with the Legislature and the public and the department all at the same time. And I think it's essential that we continue that process. As I say, a lot of the language in this is intent language. But you know, you have changes of administration, and perhaps Director Nelson won't here for the next 40 years, so we may have some changes, but we felt that it was important to have a road map as to what some of the intent was of the council at the time that we had our hearings. And so wherever we have language in here that sounds mandatory, I would suggest that be modified where consistent. We are not trying to drive up the cost by creating partnerships, entities, investigations of things that you're already going to do. But we've said we'd like you to be--"you," that is, the department--to be looking into various matters that we came up with. And there's a whole page of them on page 3 of this that describe some of the things we talked about, and dealing with responsibility of the individual, try and promote those, promote long-range care considerations, things of that nature. And we think these should be actually continually considered. The

interesting thing that I think we've done that probably isn't done often enough, and that is, we put time lines on this. So we've said, okay, on those matters I just talked about, that on or before December 1 of 2007, Health and Human Services Agency come and report to the Governor and to the Legislature what progress is being made in these areas. We've also, in regard, as Senator Byars is concerned about defined benefit plans, we recognize...we didn't want to get into defined contributions at this time, defined benefits. We wanted to leave things as they are but to investigate what should be done or could be done in this regard. So we're asking for them to develop recommendations in regard to what to do in this area. And I think that's really what we're looking at are some recommendations, and report those by December 1 of 2008. So maybe there should be a change. But they need to consider the effect that that may have on people, as well as on dollars. So I think that's something that they will need to look into and make their appropriate recommendations. And this is another benefit, I think, of having a continued commission, council, or whatever you'd call it, because it leaves public input, it leaves a group that is monitoring this, not in the agency itself, but from the outside. So there is a back-and-forth reporting that's being taken by this process. And we definitely know that we want to consider expansion of home-based services and we'd like to see what progress is being made in that regard because we recognize that we've had a program where maybe there's been a problem of assessment, whether assessment is appropriate and whether they've done it accurately statewide, so we want a report on how that's taking place, not just in general terms but rather a specific report on the assessment that is being done. It's to see where people should be placed, whether it's appropriate to be placed in some kind of a facility or in home-based situation or whatever else. And we have a definite emphasis on the home-based aspect of this. We know that there are facilities within this state to provide adequate and appropriate services. It was said that people who...they don't want to go into a nursing home generally right at first, and there's a lot of resistance. But sometimes, when they get into the nursing home, then they feel comfortable in that situation and they don't want to move. So it's important to assess them at first, look at the alternatives for the continued evaluation of their situation. And so

I've got some time lines in this, for reporting what the situation is in regard to how these assessments are taking place and what progress is being made towards the implementation, because we all know that home-based care is much more pleasant for people if it can be done, and certainly from the state's perspective, it's a lot less expensive. And so we're looking at those two things at the same time. So with that, I don't want to go into all of the details of this; I simply want to tell you that we have more or less documented what you already heard when I presented a report to you in December as to what we thought was a road map to making an impact into reducing the expenses without diminishing the care that's given to our people when they're needing care. So with that, I would simply tell you that I'd like to submit this to you, and I would like to work with you in any way that you think advisable. And if you think something is too onerous as far as requiring that something be done that's too expensive, I've talked to Director Nelson about some of those matters, and I'm trying to be responsive to that concern, because we don't want to drive up the cost by making unnecessary reports and agreements that we just don't need in this case. So with that, I would just simply submit this to you and ask you to consider making this a part of a committee amendment just to carry it out. We recognize that in many cases it's not a law per se. We're not saying, do this and this and this. We're saying it's the intent of this group that these areas be investigated, be evaluated, and report back to us. I think one thing we fail to do perhaps as legislators it to deal with agencies in such a way that there is a reporting time. So they have to come back and tell you what they've really done. And that's what we're doing in this case. So with that, I would be glad to answer any questions you have.

SENATOR BYARS: Thank you, Senator Pederson. You and the members of your committee have put in an extraordinary amount of time and effort into this project and I personally want to thank you. I came to many of the hearings myself and I want to thank you all. As I'm Chair now, I'll be the first to speak and open it up. When I looked at LB 1248 as it was introduced, and I tried to get my arms around what your last meeting was and your presentation was, I wasn't seeing anything that came out of committee, I was not seeing anything definitive. And I was, quite honestly, just

nonplussed because I couldn't understand all the work and all the recommendations that I heard you make. Bringing the amendment, I think, is a huge piece. I'm not sure I want to leave it totally in recommendations, as far as my personal feelings are concerned, and certainly want to hear the feelings of the rest of our constituency and the people that we represent. But I...you're right on in those things that have been brought to your attention that the committee felt deserved attention by your public policy members, the Unicameral Legislature, and now to decide how we want to deal with those issues. But thank you very much, and I'll open it up to the committee.

SENATOR D. PEDERSON: May I make one comment? You said that you looked at it and couldn't understand it. Think of the ten people that sat here and just spent an awful lot of time this summer, this fall, this winter going over these details and then looking and saying, okay, where is it? It isn't in here. So I think this is perhaps the missing piece in connection with this. But I think we'd like to look back and say, what were you trying to accomplish by your task force? What are you, members of this committee, trying to accomplish by your bill? You're trying to put forth a definitive program that will ultimately benefit both our citizens personally and the state financially in connection with Medicaid. I'm very concerned about the continued expense of Medicaid, that we're dealing with that right now. You know, annually it's 17 percent, more than 17 percent of our budget, and it's increasing. When you think of it, our gross increase in revenue each year for the last 20 years has been about 5.3 percent. It goes up, it goes down, it goes up, it goes down, but 5.3 percent on average. But Medicaid is approaching 12 percent increase. And if you have 17-plus percent of your budget that's increasing more than twice the amount of your state revenue increase, you have an impending explosion. And we'd like to be part of the answer to that if we can.

SENATOR BYARS: And much of this related to an overall huge expansion in healthcare growth. The actual cost...expansion of healthcare costs in Medicaid is less than the total healthcare cost of those people who aren't on Medicaid are experiencing. So we aren't...you know, the low-income, poor, the disabled actually aren't spending as fast as the

overall healthcare system. And I would invite you and your committee to share with our members of our congressional delegation. I spent the weekend in Washington as chairman of the NCSL Health Committee, trying to figure out how we can get across to Congress that they can't keep pushing these things down to the states and expect us to be able to afford them, because we can't. People are going to be hurt irreparably.

SENATOR D. PEDERSON: I just came from a hearing in my Appropriations Committee where the sheriffs in the state are very concerned at the loss of a fund called the Byrne funds. The Byrne fund is one that provides funding for law enforcement to try to deal with drug usage and try and undercover find out what's going on, try and work in that area. And the funding was, at one point, completely cut this year. And now it's only a 47 percent cut. But the agencies are coming now to my Appropriations Committee and they're saying, you've got to come up with $800,000 right now to make up for this deficiency. And our concern is we can't make up for all of the cuts in this big budget message that the President has just passed. We can't do it, the state. And so it drives it down to the local entities to try and pick up those costs. So the federal government says, look what we did; we saved a lot of money. They saved a lot of money by pushing it back down to the local entities, and I'm very concerned about that.

SENATOR BYARS: Thank you, Senator. No other comments? Thank you for being here, Senator Pederson, and your service. We appreciate it.

SENATOR D. PEDERSON: Thank you. May I be excused? I have to go back to my committee. Okay. Thank you.

SENATOR BYARS: Thank you. Mr. Nelson? You aren't good for another 40 years? I'm not sure about that. (Laughter)

DICK NELSON: (Exhibit 5) Senator Byars and members of the committee, I'm Dick Nelson, N-e-l-s-o-n. I am the Director of the Department of Health and Human Services Finance and Support. And I am a little concerned that Senator Pederson may know more about my future than I do, so. (Laughter) On a more serious note, I feel very privileged to have been

able to serve as coauthor of the Nebraska Medicaid Reform Plan with your committee's counsel, Jeff Santema. And I am very pleased to be here to testify in support of LB 1248. My testimony will be brief today. Most of what needs to be said is contained in our December report about which the committee received public testimony on December 15, 2005. The bill as introduced does two things. It recodified the Medicaid law as required by LB 709 and it contains the legislative authority necessary to implement the recommendations in the Nebraska Medicaid Reform Plan. Because of the recodification, the bill is 91 pages long. The core of the changes, however, as I think Mr. Santema has indicated, is contained in Sections 1 through 11 on pages 3 through 18. We believe that Nebraska's state government accepts a responsibility within its means to help children, aged, and disabled persons with low income obtain access to needed healthcare and related services. But a program that is structured in a way that is not fiscally sustainable in the years to come will become a much poorer program when future generations need it. We should address the difficult issues now and not wait for them to become more intractable. Therefore, without mandating immediate changes to the Medicaid program coverage, the purpose and the effect of this bill is flexibility. It is drafted to give increased flexibility to Finance and Support to manage the Medicaid program efficiently and effectively, and it makes it clear that the state of Nebraska will not be bound by any entitlement mandates that are not required by federal law. In the rapidly changing world of healthcare, state government needs to be able to respond in a timely manner to those changes. Other states are facing problems similar to Nebraska's, although some are more severe. Congress is also struggling with fiscal sustainability. It is very likely that the federal Medicaid law will be undergoing change in the coming years. Since approximately 60 percent of Nebraska's funding is federal, we need to be able to adapt our state program. The focus of Medicaid reform in this state has been to identify ways to become more efficient and economical. Efficiency includes the effectiveness of healthcare outcomes. Medicaid-covered services that can deliver efficiency and economy will need to be continued. It does no good to drop a covered service, for example, if that will result in increased costs. On the other hand, if new technologies or services arise, we need to be able to

move to them. It is clear when you look at the future demographic makeup of the state, that reform of the long-term care system is and must remain the centerpiece of the reform effort. If we do not create sufficient home- and community-based services over time, Medicaid reform in this state will fail. This does not minimize the importance of the other changes proposed in the plan, but the impact of those reforms pales in comparison to the impact of a reformed, streamlined, long-term care system. We also know that these improvements recommended in the Medicaid Reform Plan can bring increased efficiency and economy to the program, but they will not be sufficient to make Medicaid fiscally sustainable in the very near future. Therefore...I'm sorry, in...I don't mean "in the near future"...in the long-term future. Therefore, the bill proposes that we continue to monitor the reform efforts elsewhere and report back to this body in 2008. The President, in his State of the Union Address, proposed formation of a national commission to examine Social Security, Medicare, and Medicaid. There is an existing reform commission that is examining Medicaid itself under the auspices of CMS. States are identifying new ways of structuring their Medicaid programs. All of this effort can provide Nebraska valuable information in formulating our necessary next steps. We ask that the Health and Human Services Committee advance LB 1248 promptly, so that the full body may consider it during this short session. And I would like to add that, as Senator Pederson indicated, we have had conversations with regard to the amendment that he has presented to the committee today. We expressed the willingness of the Health and Human Services System to work with Senator Pederson, and the ex-Medicaid Reform Advisory Council members, and this committee in preparing a bill that is appropriate for advancement to the full body. I would be very glad to answer questions.

SENATOR BYARS: Thank you, Mr. Nelson. I also want to thank you, as I did Mr. Santema and Senator Pederson, for the tremendous amount of effort, work, and passion that you put into this effort,...

DICK NELSON: Thank you.

SENATOR BYARS: ...and I appreciate it very much. I can't

help but comment on your next to last paragraph where there is an existing reform commission examining Medicaid. Part of my meeting in Washington this weekend was the fact that the administration totally, completely ignored the states in setting up that commission, although they were requested to have members of the people that are going to pay for an awful lot of these reforms. They, for some reason, just completely ignored us and we're trying to figure out how to get their attention to understand we are players in this. So thank you. I would open it up for comments for Mr. Nelson, questions. If not, thank you very much. Appreciate it. Good luck on your next 40 years. (Laughter)

SENATOR ERDMAN: I just had a comment. And I did thank Jeff, and I think that you have thanked Director Nelson appropriately for his effort. I think one of the things that may be overlooked in this entire process is not only the work that our legal counsel and Director Nelson put into preparing the report that was the result of LB 709, but the many people that work in your department and in the Department of Health and Human Services who sacrificed their time and reallocated their resources to make sure that they were able to facilitate with that process in a timely manner, I don't think can be overlooked in this entire process. And so on behalf of myself and those that have been involved in this process and this committee, make sure that those employees of the department who were involved are well thanked for their efforts as well.

DICK NELSON: If I may just add one other comment, Senator, that I think it's important for the committee to know. There's been some discussion today about what's in the bill and what's in the plan and what's in the plan isn't in the bill, and so forth. I do want the committee to know that yesterday before the Appropriations Committee, I appeared on behalf of the Department of Finance and Support and requested the Appropriations Committee transfer about $1 million in fiscal years '06-07. That's a combined total of $1 million in the current and the next fiscal year to our operating fund to finance the initial stages of implementing the reform plan. The plan, as actually presented, and apparently what may not have been well understood, it contained some findings. It also contained recommendations and strategies. Several of those strategies said we

proposed to propose legislation, and those are the items that appear in LB 1248. But we also said we proposed to do a number of other things--let contracts, start programs, all of those various things, and that's what we are doing with the initial $1 million that we have asked to be transferred to actually begin implementing the plan as it was outlined to this committee on December 15.

SENATOR BYARS: Thank you.

DICK BROWN: Thank you.

SENATOR BYARS: Okay. Next proponent of LB 1248? Doctor.

RON KLUTMAN: My name is Ron Klutman. I'm a family physician from Columbus, Nebraska. I'm speaking for the Nebraska Medical Association, which I've been a past president of. The Nebraska Medical Association supports the work of the HS Committee here and the HS System to make changes to control cost while assuring availability and access to those who cannot afford medical care. I was just thinking about Senator Pederson. It made me start thinking that in the early eighties the Nebraska Medical Association met at least twice a year with the Department of Health and Human Services about Medicaid. At that time, it affected...it was basically how the physicians could input it...impact into it and to know what was going on with the system. In '95, Governor Nelson appointed me to the Governor's Blue Ribbon Commission on Health Care with me being asked to chair a group of about 30 to 40 people, which included the Lieutenant Governor at that time, several state senators, the chancellor of the Med Center, industry, and many people, and take a look at the Medicaid budget and see what we could do to recommend to Governor Nelson at that time, how we could impact on the system. You won't be able to see it, but this was in about '95 and it was right before the explosion of the costs to the Medicaid program because of the marked increased healthcare. After two years...and we spent two years doing this, meeting Friday afternoon once a month. What we did is we got to really understand the system and how it worked, where the money was being spent. In 2000, this committee asked me to chair--I do a lot of volunteer work, you can see--asked me to chair a committee to look at...we had passed what was called the Kids

Connection in about '98, '99, and some of the senators will have to help me, which extended the Medicaid program to 185 percent of poverty. And we did look at it two years later, and it was a tremendous program. I can remember I was interviewed on television, the Governor at that time took me up before the reporters. But one of our conclusions, and I can't find the book, was that we have done a tremendous job including children that need healthcare. But there's a cost attached to it, and if we don't look at that cost, we're going to have problems. Well, you can see again this is about when we passed Kids Connection, and you can see how the enrollment in Medicaid went straight up. Well, luckily for all of us, I think, is that children can have healthcare delivered fairly cheaply. Although we added a lot of people at that time, we did it fairly inexpensively. 2005, we roll around, twenty-five years later, the Nebraska Medical Association asked me if I would attend meetings on the Medicare Reform Advisory Council. Of the ten members, somehow we forgot about the physicians, so there weren't any there. And we never said anything about that all, did we Jeff? But they decided they better bring the old man out of retirement. So I did attend the next 12 or 14 meetings, however many there were. And I thought, you know, this is deja vu all over. This is what we did back in '95. There are certain points that had changed from '95 that I'll try to go over with you real quickly because I don't want to spend your time today. That's as Senator Pederson was sitting here talking, I says, we've got term limits in the Legislature. We've got term limits for the Governor. I've been doing this for 25 years. I'm term-limited in ten years because I'll probably be dead. We need to set priorities and we need to have some type of council that's going to watch these over the coming years. And I think Senator Pederson's idea is just absolutely superb. It really needs looked at. There's a lot of history of in the Department, but I do think that the Legislature, and maybe the citizens of Nebraska need to make sure we retain things that we've learned. Saying that, I'm going to try to be quick. As we've looked at...as I've looked at the Medicaid budget in the last ten years, the thing that impressed me back in '95 was there was about 6,000 people who were eating up about 40 percent of the Medicaid budget. And we looked at that and you can tell what it is. It's long-term care. We looked at the people

receiving Medicaid, the kids under 18 and the pregnant patients, and there was probably about 100,000 of them eating up about 20 percent of the budget. As I can read the figures in 2005, and I'm going to try to be apples with apples and oranges with oranges, it looks like we've extended...outside the long-term care--that population is fairly stable--but we've added an extra 10,000 people that you're getting home healthcare instead of in the nursing home. But that's still 40 percent of the budget. We expanded the kids and the pregnant patients up to about 150,000 of them, and that's only 20 percent of the budget. Our answer...when we looked at this, the only answer we could see was from South Dakota, and South Dakota refused to build any nursing homes. Well, you know, that's not an answer here in Nebraska. It worked for them but it's not going to work. And we really said that this needs to be taken over by the government. This is not a state program. Well, you know well that the U.S. government is not going to take over this program, so somehow we're going to have to work around it. The other thing that I think was kind of interesting for me is, in 1995 20 percent of the Medicaid budget went to physicians for physician fees, 10 percent went to pharmaceuticals. As we look at the year 2005, 20 percent of the budget goes to pharmaceuticals, 10 percent go to the physicians. So the physicians have done a pretty good job of holding down their share. Pharmaceuticals have skyrocketed. And I think any private plans now in private health insurance will have the same problem--that pharmaceuticals is a real problem. With the department four years ago, we did set up several priorities. The nonsedating antihistamines, such as Claritin and that, we made priorities. You couldn't get Nexium without doing some other things. There was about three things. And we really did cut off $17 million of the projected budget. I think that's why it's important, in...I can't remember if it's in the bill or in the report form the committee, but we are working with the psychiatrists because the psychotropic drugs are a huge component of the Medicaid budget, and we are going to try working with the psychiatrists so we can bring that under control. And I think it could have real benefits. I think, not in the bill but in the committee report, did recommend maybe hiring somebody to look at a formulary. The physicians of the state would be glad to do that. And I think an outside person, I imagine the

Department could do that on its own. Because understand, it's a real...Senator Johnson probably can tell you, it's sometimes a rather Herculean task to get approval of some drugs that your patients need, and that's why we want to work closely, so we can make that smoothly. And like we said, we go in support with the bill. We have a little concern that it authorizes the Health and Human Services to establish a separate Children's...or, State Children's Health Insurance Plan. We certainly understand the benefits of it. It's better taxable things from the national government. It allows us to make a more distinct health policy for our recipients. Any physician will tell you, and I think any hospital administrator will tell you, that the Medicaid coverage of healthcare is as good as any plan in the state. There's no private insurance, there's no other governmental, that has better coverage for that. I think it's great. And as a physician, I do believe the neediest need the best healthcare. But when we start talking between 150 and 185 percent, I think it's worth taking a look at. As you talked about defined contributions and defined benefits, I think we do have to seriously look at the Florida program. I remember my pension plan, 20 years ago, I was in defined benefits. That lasted about three years because it became so expensive we had to go to defined contribution. I don't think this state is ready for that. I would not recommend it. I think that's why this committee and the state has sat on it. I do think we need to look at the state of Florida's plan, and five years down the road see if it helps financially, but more important, that it's not harming the people it's intended to help. And all of us have sat here and we've all reviewed this bill, and you're going to hear all these people talk. Anything that we change affects people, and it really affects them in the bottom line. So people can come in and say, we're going to cut healthcare costs in the Medicaid program. It's not as easy as that. And I can tell you after working on this for 25 years, 10 years ago we didn't have any simple plan. Looking at this now, I can't tell this legislative committee that there's any simple plans that cut costs. I took up too much time. Senator Johnson, they had some concern when they asked me to sit in on these meetings that I might get up and talk a little too much. (Laughter) Senator Johnson knows me. I only spoke once in about 12 meetings, so I was very proud of myself, you know. Is there any questions?

SENATOR BYARS: Thank you, Doctor. I appreciate you being here. Any questions of the committee? Senator Howard?

SENATOR HOWARD: I'd like to say I appreciate your explanation. It was very engaging and it certainly gave me some good information. You talked...

RON KLUTMAN: Could I...Mr. Nelson probably could correct me, you know, because I'm trying to do apples and apples and oranges and oranges,...

SENATOR HOWARD: That's good.

RON KLUTMAN: ...but I don't have the budget. But I think I'm pretty accurate.

SENATOR HOWARD: Well, I appreciate that. You discussed looking at high-cost populations, and you referred to the nursing home populations, the aging populations. Are there other populations you have considered? I know in Indiana, when they were, like all states, faced with the same difficulties with the Medicaid and things, they looked at groups that were high-cost in terms of, how can we work with those groups and empower them in some way to maintain their...do their own healthcare maintenance? And they looked at, for example, hemophiliacs. And I just wondered if that's happened in our history as well.

RON KLUTMAN: I can't answer if it's in the bill or a recommendation, but there are certain groups with multiple medical problems that we probably need a one-stop contract, one physician that would take overall care and send it out to different people. That cuts the ability of the patient to go outside the network but I think it better focalizes things and cuts the cost down a little bit, and I think give better healthcare. Jeff, is that in the bill or is that just a recommendation?

SENATOR BYARS: I'm sorry. You can't ask him questions. (Laughter)

RON KLUTMAN: Oh, I can't? I'm sorry. I got so used to asking him questions.

SENATOR BYARS: We need to get wrapped up. We have a lot of other testifiers, and we do appreciate it. Dr. Johnson? Senator?

SENATOR JOHNSON: No.

SENATOR BYARS: Okay. Thank you, Doctor. Senator Erdman.

SENATOR ERDMAN: Just briefly. I think the language you're looking for is actually in the amendment that Senator Pederson offered about high-cost medical assistance recipients with multiple medical conditions.

RON KLUTMAN: So it's in the amendment. That was a great amendment. Thank you.

SENATOR BYARS: Thank you. Next proponent? Let's try to keep our testimony brief. Senator Jensen, I think, made it very clear to us, confine it and so we can get everyone who wants an opportunity to testify to be able to testify today. Welcome.

ERIC HODGES: (Exhibit 6) Good afternoon, Senator Byars, and members of the committee. My name is Dr. Eric Hodges. I'm a practicing pediatric dentist in Omaha. I've been licensed since 1987 upon my graduation. I'm also a trustee of the Nebraska Dental Association, and I'm speaking for the Nebraska Dental Association. The Nebraska Dental Association supports the policies that are contained in LB 1248, especially that eligible recipients receive necessary healthcare and encouragement of personal responsibility and accountability. We have been privileged to be a part of the meeting with Dick Nelson this summer regarding data gathered for the report by the Medicaid Reform Committee. As the Nebraska Medicaid Reform Plan reported, dental Medicaid represents only 2 percent of the overall Medicaid budget. According to the Center for Medicare and Medicaid, Nebraskans spent an average of 4.6 percent of their overall health dollars on dental services. There is a significant fiscal discrepancy between what Nebraskans spend for dental health and what Medicaid provides. I want to discuss some of the information that affects density in Medicaid. There are fewer dentists

compared to physicians. If you look at Nebraska's three largest counties, Douglas, Lancaster, and Sarpy County comprises about one-half of our population. With those same three counties, there are approximately 2,800 physicians and 677 dentists. Therefore, the patient-to-dentist ratio is four times that of physicians. When we look at the uninsured, there are over 108 million children and adults in the U.S. that lack dental coverage, which is over 2.5 times the number who lack medical insurance. That's about 42 million people. When we reduce services it affects the standard of care in dentistry. Reducing any more service from the Nebraska dental Medicaid budget will not only result in no savings to the state but that untreated dental disease will reappear in emergency rooms throughout the state, costing taxpayers several times more than if these problems were ended immediately. The NDA also supports the fluoridation bill, LB 158, and believes its passage will ultimately reduce Medicaid costs. We do have two concerns that we believe can be addressed in minor amendments. Number one is, the original statute required that the Department report any proposed elimination or modification of existing services to the Governor and Legislature by December 1. This reporting mechanism was deleted on page 9 and 10 of LB 1248, and we request that it be included. Number two, it's also our understanding that the new paragraph 3 on page 11, "with due consideration given to the needs and resources of eligible recipients," is intended to possibly include services currently optional under federal Medicaid guidelines. Our proposed amendment is an attempt to clarify this intent. I'd like to thank you for the opportunity to speak, and I'll take questions.

SENATOR BYARS: Appreciate it, Doctor. Any questions or comments? As I'm reading your statement, you're in favor of LB 1248 as long as there is no reduction in reimbursements to dentists. (Laughter)

ERIC HODGES: Absolutely. We'd like an increase. (Laugh)

SENATOR BYARS: Okay. Thank you. Senator Howard?

SENATOR HOWARD: Just a quick question. Is there any way that you can work with the dentists to encourage more dentists to bill through the Medicaid program and accept

more of our Medicaid patients?

ERIC HODGES: I think that's one of the things that we're getting at is that part of the problem is that we have an unequal barrier, so to speak, just from dentistry. There are four times the physicians. They spread that cost over four times the individuals. So if there are 300 Medicaid individuals per dentist, then we have 75 Medicaid patients per physician. That puts a huge burden on dentistry versus medicine. And so that's one of the issues that we want to address. So I don't know that I answered your question but...

SENATOR HOWARD: I know from my previous work with Health and Human Services and foster care children, it's very hard to find dentists that will accept patients under the Medicaid.

ERIC HODGES: And I do, and...

SENATOR HOWARD: Well, thank you. Thank you. (Laugh)

ERIC HODGES: But it does put you in a precarious situation sometimes, and that's one of the things that we wanted to discuss with the committee. How important...and we in the NDA, the Nebraska Dental Association, are committed to that, Senator Howard, so I want you to know that.

SENATOR HOWARD: Well, I do appreciate that. Thank you.

ERIC HODGES: You bet.

SENATOR BYARS: Thank you, Senator Howard. Any other questions or comments? Thank you, Doctor, for being here.

ERIC HODGES: Thank you.

SENATOR BYARS: Next proponent?

RON JENSEN: (Exhibit 7) Senator Byars, members of the Health and Human Services Committee, my name is Ron Jensen. I'm a registered lobbyist appearing before you this afternoon on behalf of the Nebraska Association of Homes and Services for the Aging, which is an organization made up

exclusively of private nonprofit and publicly owned facilities and services for older persons. I believe the Page is distributing my written testimony. I'm not going to read it to you, in the interest of time this afternoon. Suffice it to say that we find a lot of things in LB 1248 that we can support. We find a few things that need to be attended to or changed. There is one aspect of all of this that I'd like to touch on with you this afternoon, and that is, I believe, in the years that I've been hanging around the Legislature, and they're less than 40 but a good many, this would be the most profound transfer of authority from the legislative to the executive branch that I've seen. All of us know who work with the Legislature, serve in it, that the theory of the one-house Legislature in Nebraska is that the people are the second house. And so it's a very public process. Every bill has a public hearing. Anyone can come and testify and say pretty much what they want. There's ample public notice of events. I would contend that if all of this is going to go over to the executive branch that that transparency and that public participation needs to go with it. And we've noted some places in LB 1248 where one would assume that the department would take the action that's being discussed in accord with the Administrative Procedures Act, but it's not stated, and we believe that it should be in each of those instances, or maybe there should be a blanket provision that all decisions of the department that have to do with who's covered and what services are covered are subject to all the rule making notice and procedures, the Administrative Procedures Act, maybe even something beyond this, so that other house, that transparency of public participation, goes to the executive branch with all of this authority. Dick Nelson was kind enough a couple of weeks ago to have a meeting, conversion with me. We went through LB 1248, and we were talking about one of his provisions. And he gave me his fix on it, and then he said, but I won't always be here. And that struck me because the fact is that none of us will always be here. And this legislation needs to be crafted so carefully that years from now, when none of us is here and perhaps persons of ill will become responsible for the administration of this program, bad things can't happen. And I think that's one of the major charges that this committee faces in this overhaul. I would be happy to respond to questions if the committee has any.

SENATOR BYARS: Thank you, Mr. Jensen. Any questions? Not seeing any, thank you very much.

RON JENSEN: Thank you very much.

SENATOR BYARS: Next proponent? Any other proponents? Okay. We'll start on the opposition to the bill. Again, please keep your comments to the point and brief, and do not be redundant. You can certainly sign in your opposition, but keep your testimony as brief as you possibly can. I do have three letters in opposition to LB 1248--one from the Nebraska Optometric Association, one from the Alzheimer's Association, and another from the Center for People in Need. These are letters that we will place on file in opposition to LB 1248. (Exhibits 1-3)

KATHY HOELL: (Exhibit 8) (Inaudible) the committee. My name is Kathy Hoell, H-o-e-l-l, and I'm the executive director of the Statewide Independent Living Council. We're an organization mandated under the Rehab Act of 1972 as amended in 1992. We support independent living for all people with disabilities. We oppose LB 1248 as it is currently written. Our organization supported LB 709 last year. We want to see Medicaid reform that are sensitive to the need to make this a fiscally sustainable process but it has to be effective. It has to be practical and responsive to the needs of the people. According to the Social Security Administration the average supplemental security income payment in December of 2005 for a person classified as blind/disabled is only $455.50 per month. Given so little income, many people with disabilities could not afford premiums, deductibles, or increased copays for their medical care. We're also concerned about the fact the Legislature is turning over all their control, including oversight, to two government appointees. Nebraskans feel they elect their senators to be their voices in Lincoln on state matters. They can call them, send them letters, attend legislative hearings, and feel like they have a voice. With the process that's outlined in this bill they would lose this voice. There is no requisite public input. The only opportunity would be through a hearing process within the Administrative Procedures Act, and that is quite inadequate, if you've ever gone through it. Another concern

is, LB 1248 requires less consideration of the needs of recipients. Though the department would provide a report to the Governor and Legislature, less guidance is given about what will be done with that report. LB 1248 strikes language that's currently in statute requiring the director to consider the effects such limits will have on the ability of such recipients to maintain their health, to live independently outside of medical institutions, and to engage in employment. I'm not going to read all of my testimony because you have a copy of it. There is a number of things that we are very concerned about with this legislation. But one of the things that our organization is very concerned about is that this legislation appears to have a very strong institutional bias. Because people with disabilities do live on limited incomes, they will not be able to afford copays, doctor bills, or premiums. The only option is going to be institutions, so it seems like you're setting it up so that's where they end up. The one thing I do want to address is care coordination. In the legislation, LB 1248, it is a requirement to continue to receive medical assistance. To our organization, this is a form of forced treatment. In the original Medicaid reform plan, a person's involvement in this program would be voluntary. There is an exemption process. For a number of people with disabilities, the treatment that we receive for our disabilities, primarily the medications we take, cause weight gain, cause diabetes, cause dental decay, just to name a few of the issues. And the way this is written into the bill, these people would be kicked off the program for failure to comply with the case management. What are we then going to do? Put them all in institutions again? Anyway, what I did want to...was that we do it at...we share...I can't talk today...a myriad of concerns that are being brought up in this hearing, and that we worked in conjunction with the Arc of Nebraska and Nebraska Advocacy Services to develop our testimony and that we support the points that they are going to be bringing up, so I can avoid being redundant. Anyway, if there's any questions, I'd be glad to answer them.

SENATOR BYARS: Thank you, Kathy. I appreciate you shortening your testimony. Appreciate it. Senator?

SENATOR JOHNSON: Well, I'd just like to make one comment,

Kathy, is that as you have observed this committee over the last few years, particularly if you look at what has been done with mental health, that we've tried going in the direction of reducing institutional care.

KATHY HOELL: And I appreciate that.

SENATOR JOHNSON: And I think we recognize that that not only is not the desire of a large of majority of people but it's also more expensive. So I think that we're probably on the same team.

KATHY HOELL: Let's put it this way--I hope we are. (Laughter) I'm not going to say definitely all the time.

SENATOR BYARS: Thank you, Senator Johnson. Thank you very much, Kathy. Next opponent, please? How many opponents do we have? Okay, I would ask you again, if your testimony is redundant, please sign in or submit your testimony to the committee, so that we will have it as part of the record. And I know you all feel passionately, but please understand we have several more bills to hear this afternoon and we certainly would appreciate your brevity. But get to the point. Thank you.

DEBORAH WESTON: (Exhibit 9) Thank you, Senator Byars, and members of the committee. My name is Deborah Weston, W-e-s-t-o-n. I'm executive director of the Arc of Nebraska and registered lobbyist for the Arc of Nebraska and I'm testifying on behalf of the Arc of Nebraska, which is an advocacy and support agency with and for people with developmental disabilities and their families. I will try and summarize my testimony. Not to worry, this is not all of my testimony. I did provide some supporting documentation. But we do thank you for the opportunity to speak with you today, and we are testifying in opposition to LB 1248. Now we did support LB 709 and do support Medicaid reform. In fact, people with developmental disabilities and their families have been advocating for Medicaid reform for many, many years beginning with reform of the deinstitutionalization movement. We just don't believe that LB 1248 as written is the real vehicle to accomplish Medicaid reform. You'll find on the third page a listing of several of the initiatives that are in operation in other

states, which we believe are very positive reform initiatives. And what we think is especially important is that they're cost-effective but they almost maintain those essential protections for the most vulnerable Nebraskans by ensuring that Medicaid fully meets all of the needs of people with developmental disabilities, children and adults. We also strongly believe, strongly support the need for a clear Medicaid public policy. We think that that is vital. We believe that the public policy statement has to address more than the operating mechanisms but also the purpose and the value of Medicaid to Nebraska and its citizens. Section 3 contains the proposed public policy statement and within that section we believe the language needs to be made more clear by rephrasing. And I am going to be somewhat specific today in my testimony, to expand that definition to more clearly define who would be eligible, and that is low-income Nebraska residents, the aged, people with developmental disabilities, people with disabilities, and caregivers since Medicaid by need and by design provides both healthcare and long-term care. We also believe that that same section has to include not only access to appropriate care but health and long-term care and the recipients' ability to maintain their health, live as independently as possible outside of institutions, and engage in work and education. I want to say at this point that the Arc of Nebraska has worked in conjunction with Nebraska Advocacy Services and the Nebraska Statewide Independent Living Council. We concur with and support the testimony that they are making available today. And we do want to avoid redundancy and duplication, but I would like to go into one issue that Ms. Hoell mentioned. I'd to go into a little more depth, because the Arc of Nebraska believes very strongly that the public policy, which I just mentioned, and the full parameters of the Medicaid program should continue to be determined by the Nebraska Unicameral. Nebraska's Medicaid programs were not developed in the course of one legislative session. LB 1248 proposes significant changes to the direction of Medicaid and managed care programs. We do not believe that such comprehensive Medicaid report should be implemented without review and approval of the Nebraska Legislature because this begins to set the stage for a very different kind of functioning of the Nebraska Medicaid program. For example, I'm going to list a few areas of concern. The department is given the

authority within the bill, in Section 8, subsection (2), to determine the provision of optional services as may be permitted but not required by the federal Social Security Act. Now these are services which the state considers optional but are essential for people with developmental disabilities. In Section 9, subsection (1), the department is given the authority to establish a schedule of premiums, copayments, and deductibles. And I'd like to note that due to the passage of the Budget Reconciliation Act, this would not only allow premiums, copays, and deductibles, but if you were not able to afford the premium, copayment, or deductible, you could be turned away. We now have a no-turn-away policy but this would potentially allow for a turn-away, so you could be refused necessary and essential services. Also in Section 9, subsection (2), the Department is given the authority to establish limits on the amount, scope, and duration of goods and services that recipients may receive. We believe, and we maintain our belief, that legislative guidelines, requirements, those specific reporting time lines, and criteria must be retained in statute and that the existing language should be preserved so that--and this...the language I'm just about to read is pulled from existing legislation--that no limits to the amount, scope, or duration of services, no schedule of copayments, premiums, and deductibles, and no elimination or modification of provision of optional but necessary to people's services shall be put into effect until a report is provided to the Governor and the Legislature by December 1. The report shall include a detailed analysis of the projected impact on recipients of medical assistance and their ability to maintain their health, live as independently as possible outside institutions, engage in work and education, and also the impact on medical assistance expenditures. The proposed limits, scheduled modifications, or eliminations shall not take prior to July 1 following this report, legislature review, and approval. Again, in another section, in Section 7, subsection (1), this is the funding section, it states that funding for the program shall be based on assessment of the General Funds revenue and the competing needs of other state-funded programs. Again, we believe the criteria and requirements must be included that identify the process of determining the competing needs and the priority of other state-funded programs. The Legislature should be involved

in this decision making, and the public should have access to transparent, accessible forum and process to determine this very delicate balancing of competing needs. We don't believe that Nebraskans would chose to put wants above the essential needs of the poorest and most vulnerable of Nebraska citizens. And our concern is based on our knowledge, our experience that disability is expensive. If people with disabilities and their families are faced with copayments, premiums, deductibles, potential elimination of necessary optional services, lesser amounts in scope, duration of services, they will not be able to sustain themselves or their families. And what options are available? Either they can not seek healthcare and long-term care that they need not only to live but to survive, or they could seek the use of institutional services because copayments, premiums, deductibles are not required and there...where there will be no limitations in essential optional services. Now the Arc, of course, subscribes to the principles of self-determination, that people with disabilities and their families should exercise control of their support through freedom, authority, support, responsibility, and confirmation. We agree with the provision that recipients should be encouraged to, we say, continue our personal responsibility and accountability for our use of healthcare and long-term care. But frankly, it's really difficult to assume personal responsibility and accountability without the accompanying authority to make personal decisions about your healthcare and your long-term care needs. Responsibility without authority or choice poses a very real and difficult dilemma for people with developmental disabilities and their families. Now I have attached our testimony regarding the Medicaid Reform Plan. We want to thank the two designees for all their work in the advisory committee. We agreed with many of the findings of the Medicaid Reform Plan. We had some concerns about a couple, and we would renew those concerns. And I'm not going to go into depth on those but when we look at contributions from families who have children who use Medicaid waiver services, we want to approach that very cautiously, and we would encourage you not to base it on a pure sliding income scale but instead include...factor in the cost that families incur that are extraordinary beyond the costs of a family without a child with a disability. And we would encourage you to look further into the

principles of self-determination and include those in the ongoing plan and process of the Medicaid reform. I thank you for your time and consideration today. I would answer any questions.

SENATOR BYARS: Thank you, Ms. Weston. Seeing no questions, thank you.

AL CRAWFORD: I'm going to sign my name. I'm not going to testify but I am going to sign my name in opposition to the bill.

SENATOR BYARS: That's fine. Thank you. Next testifier?

BRAD MEURRENS: (Exhibit 10) You'll be happy to know, Senator Byars and Senator Jensen, that I am going to completely erase two of my paragraphs in my testimony this afternoon. Good afternoon, Senator Jensen, and members of the Health and Human Services Committee. For the record, my name is Brad Meurrens, M-e-u-r-r-e-n-s, and I'm the public policy specialist for Nebraska Advocacy Services, the Center for Disability Rights Law and Advocacy. I'm here today in opposition to LB 1248. A sustainable, cost-effective Medicaid program that is responsive to and meets the healthcare needs of eligible people is in the best interest of all Nebraskans. It is not our position that the Medicaid program should not be reformed or that growth in Medicaid expenditures should go on unfettered, rather that the process and reforms proposed in LB 1248 are not optimal. We share the concerns identified by the SILC and the Arc of Nebraska. However, we have some additional reservations about the tenets of LB 1248. It is unclear how LB 1248 will reform Medicaid to be reflective of and commensurate with private sector group insurance plans. Medicaid was intended and designed to be a distinct alternative to private insurance, a safety net for those individuals who cannot access or afford private health insurance. Many people with disabilities require services or equipment not covered in traditional insurance plans and many insurance plans do not cover the optional services Medicaid does. Many employer-based insurance plans place significant restrictions on mental health services, for example, if these services are offered at all. Would the hybrid system incorporate commensurate treatment, service, and financial

limitations? If so, it is likely that many individuals will be forced to forego necessary medical care. Additionally, the fiscal note indicates that this hybrid system will save approximately $1.48 million but there is no explanation as to how this savings is achieved. LB 1248 removes language requiring that the schedule for copays, deductibles, and premiums must take into account the effects of such a schedule on recipients, vendors, access to an availability of care, and utilization of services, page 9, lines 17-20. LB 1248 also removes language that any such schedule consider the effects of other states on this issue. As a responsible steward of both the state's fiscal resources and the health of its citizens, the Legislature would be remiss to allow the department to disregard the impacts of its fee schedule on those individuals whom the system is designed to benefit. What happens to an individual if he/she cannot afford these fees? Where's the safety net for them? This is what Medicaid is intended to avoid. We are concerned that this could result in people being forced into higher-cost institutional care. We remain committed to increasing the involvement of recipients and former recipients of Medicaid in the reform process. We would suggest that there be installed some mechanism by which recipients and former recipients can have input in the overall design and implementation of Medicaid reform. I would be happy to answer any questions this committee might have.

SENATOR BYARS: Thank you, Brad. Any questions or comments of the committee, such as we are?

SENATOR ERDMAN: I have none, thank you.

SENATOR BYARS: Thank you, Mr. Committee...Senator Committee. Thank you, Brad.

BRAD MEURRENS: You're welcome.

SENATOR BYARS: Next testifier in opposition?

SIMONE ROCK: I have four handouts and I have to drive to Omaha. Would anybody mind?

PATRICIA McGILL SMITH: No, go ahead because I have to do

the same thing but I'll let you go first.

SIMONE ROCK: Thank you. My name is Simone Rock, R-o-c-k, and I just wanted to speak really quickly. I am a teacher and a single mother of two children. My daughter is seven and she has cerebral palsy. She has had eight surgeries, seven of these were on her brain. She is lucky, though. She was not mentally impaired by any of these, but my daughter cannot walk. She took her first steps when she was four using a walker. She now uses crutches. I credit her intensive physical therapy, occupational therapy, and the efforts of the staff of her day-care center, which is staffed by medical and education professionals who are educated and equipped to care for her. Without these people in her life, my daughter would not have progressed as far as she has. And we have tried other facilities. With these services, who knows how far she will go. I am against LB 1248 as it is written, as this bill changes language regarding optional services such as medical equipment, OT, PT, vision, personal care services, and dental services. It states that these services, quote, may be permitted but are not required. This bill also calls for Medicaid to reflect and, quote, be commensurate with private and public health insurance. Anyone who cares for a disabled person can tell you how difficult it is to find an insurance company who adequately meets the needs of a disabled person. Medicaid and Medicaid disability waiver programs were designed to help the weakest of our society. As it is, my daughter may be losing her Medicaid disability waiver through the state because she is not disabled enough because she doesn't use a wheelchair. My daughter cannot bathe herself. She cannot walk up stairs. If our house caught on fire, she cannot reach the locks to get out. My child cannot play on the playground with her friends. She cannot attend the same gym class. How that is not disabled enough, I do not understand. Interesting enough, though, that under LB 1248, if I qualified my son who is not disabled, would qualify for routine physician check-ups and shots. He would be fine. LB 1248 doesn't change much for a healthy individual, but it does leave a lot of room to change the life of a disabled person. And I ask that this committee look at the wording and how loosely it's written, and ensure for those of us who can't drive down here and talk all the time that something is stable and protects these people, because she's got her

entire life in front of her to deal with this. Thank you.

SENATOR BYARS: Thank you very much for being here. Any questions or comments for Ms. Rock?

SENATOR HOWARD: No, sorry. (laughter)

SENATOR BYARS: Thank you. Drive carefully.

SIMONE ROCK: Thank you.

PATRICIA McGILL SMITH: (Exhibit 11) I need to get back to Omaha also, so I appreciate coming ahead of the line here. My name is Patricia McGill Smith, S-m-i-t-h, and I'm here speaking on behalf of my daughter and my grandson who are disabled, and I am at the end of a 31-year career of working on behalf of parents and families, state, locally, nationally, and internationally. So, as many of you know, a lot of us have worked a lot on Medicaid this last year. In fact, I decided that I should get the top award for having sent the most pieces of information to Jeff Santema and all the different senators because I think I sent them about, I don't know, one or two a week, at least, huh, Jeff? Oh, you can't answer that. (Laughter) Okay. When LB 1248 came out I was deeply disappointed. It's already told people about that. But I am most concerned about the rebalancing of the costs of the services of people. And I've talked about this before, but there are exorbitant costs for certain people in this state and there are not enough funds for other people. And I didn't see that that was particularly addressed in the bill. Maybe it was and I didn't find it but I think that that is probably my major point that I would like to have. And then I also talked about the respectful partnership that has been mentioned before, that we have to keep a partnership between the legislators, the families, and the Department of HHS. I also spoke on the institutional bias. We see this time and time again in the way things are allocated in this state. There is an institutional bias. We must attack this. We must not say that that's all right. Nebraska led the country in the sixties and the seventies in the deinstitutionalization effort, and now we have lagged behind to the point...I think we're like 48th in some of the efforts. And we just can't do that. There was a Supreme Court decision called Olmstead. We didn't even put together

a plan for Olmstead. And so it worries me that in this redo we didn't address some of the issues that we knew were important. I have listed some of my ideas. They're the same as have already been spoken, so I'll skip those. But I have another observation. There is a small cost but it could be helpful to families. Many families are unable to use the respite hours available because of the hoops that have been put in place to get respite. I know and I commend Senator Byars for his support of the respite for families, and this has helped. But I have another idea that I think could open another door. Many families have two days a month allocated for their respite services for their family. The DD respite has to go through a qualified provider. The services can be provided to all eligible families as is currently provided on a certain Medicaid waiver programs. The parents could recruit their provider. They could train their provider. They could go through the state and make sure that all the requirements are done for security and safety. The service time could be submitted and the bills paid by the state. This is done in a lot of our other programs of the waiver programs for children. Why would it be advantageous? Respite care is a service parents can handle and this would work. It's something I really wish you would think about because many parents don't even...they aren't even able to go out because they can't get...and it's very, very hard to find people to do this work. And then you have to put them through a provider. I say that it could be done directly to the parents from the state. For all the ones I've had for Jane (phonetic), I recruit the providers, I train them, I make sure they get the paperwork, I make sure they get their fingerprints in , and then I call in the hours and the provider bills the service with the worker, and then they send the check. One-third of the monies goes to the qualified provider. That's a waste of money, folks. I hate to tell you. I would be remiss if I did not mention what's happened in the state of Nebraska recently. No one else has touched on this. How can it be that the Governor with the legislators is about the business of cutting taxes because we have excess revenues? Everybody says we've got excess revenues. At the same time, we have huge waiting lists, and LB 1248 sets the stage for potential cuts and eliminations. It doesn't say they're going to cut them, but it sets the stage for it. And I know what's happening in Washington. So we have to pay attention to

these things. So I just would ask you to...and I'm going to send my testimony to the Governor. I don't know why we would not use, if it's that many millions of dollars, why would they not allocate some of that to alleviate the problems that we have? Everything else other people have mentioned. I thank you for the time.

SENATOR BYARS: Thank you, Patty. Any questions, Senator Erdman? Thank you very much for being here.

PATRICIA McGILL SMITH: Thank you.

SENATOR BYARS: Next proponent, please? Thank you. Welcome, Mr. Kolb.

TIM KOLB: (Exhibit 12) Thank you, Senators. While she's getting my equipment, my name is Tim Kolb, K-o-l-b, from Franklin, Nebraska. I'm in opposition to LB 1248. Mr. Chair and Mr. Vice Chair and members of the committee, I come to you today as one among many Nebraskans with disabilities who rely on Medicaid for financial and physical survival. Although I stand opposed to LB 1248 as a vehicle for Medicaid reform, I assure you I am in no way opposed to reforming Medicaid. In fact, I applaud your efforts at trying to arrive at some reasonable solution that would both preserve the financial viability of Medicaid and the well-being of those who must have its support. However, life and well-being must never be sacrificed for the sake of finances. Ultimately, good Medicaid reform must make good sense and out of that will come good policy that, in turn, will enable people to live good lives while saving precious tax dollars. While there are a number of issues with LB 1248 I could explore, I'm choosing to focus on the aspect of Medicaid reform that deals with the need for and the right of persons with disabilities to engage in self-determination and the need to upgrade a portion of the state's present infrastructure designed to support persons with disabilities in competitive employment. Self-determination involves accepting and taking risks. People without disabilities do it all the time and are often admired for taking charge of their lives. People with disabilities, on the other hand, who rely on various levels of state assistance, often find themselves in the position of having to ask, as it were, mother may I? I understand

the state has an obligation and a duty to protect the most vulnerable of its citizens, and I'm not suggesting the state adopt a policy of casting all care to the wind. However, I am suggesting that competent persons with disabilities be allowed to take reasonable risk inherent in determining the direction of their lives. LB 623, proposed by Senator Byars in a previous session, effectively codifies the right of persons with disabilities to take reasonable risks. The bill has its origins, appropriately enough, in the state's Real Choice Grant, and is known as the "Risk Statute" or the "Bill Rush Act." The Bill Rush Act is a prerequisite for good Medicaid reform because it enables people with disabilities to make real choices for their lives, like deciding to live in the community rather than in an institution. The Department of Health and Human Services Systems contends that such decision making is already allowed, but in fact, it's only at the discretion of HHS. In a time when the poor and those with disabilities are being told they need to taker greater responsibility for themselves, we say, let the state get out of the way so we can do just that. Another prerequisite for good Medicaid reform is LB 625, proposed by Senator Combs during the last session. This bill is often referred to as the "Medicaid Buy-In Upgrade" or the "Ticket to Work version of Medicaid Insurance for Workers with Disabilities," also known as MIWD. In 1999, we passed our current MIWD, intended to enable persons with disabilities typically receiving Social Security Disability Insurance, SSDI, to buy into Medicaid through premium payments based on a sliding scale with respect to their income. It was a good idea. By the way, I heartily supported it at the time that it was installed. But it was not good enough. The restrictions surrounding it and the complexity of its eligibility requirements make it extremely difficult for many persons with disabilities to qualify for it. Do you want to move that page over for me, please? Thank you. It's a sad commentary to note that seven years after its creation only 88 Nebraskans are currently taking advantage of it to maintain their Medicaid eligibility and their jobs. LB 625 illuminates many of the present complexities and removes much of the threat of losing Medicaid eligibility through being declared medically improved. Understand "medically improved" does not mean a person is suddenly without disability by way of some medical intervention. It just means an individual no longer fits

the narrow Social Security definition for disability, which essentially states that if you can't work and/or you're going to die soon, you are deemed disabled. Conversely, if you can work, you are not disabled, notwithstanding the fact that you may be blind, unable to walk, deaf, and experiencing a mental illness. Good Medicaid reform must embrace improvements that remove barriers to employment. We need to do things that encourage people with disabilities to become competitively employed and less reliant on public assistance, instead of erecting barriers that tend to keep people unemployed and in poverty. In short, we need LB 625. I feel so strongly that these two bills will provide a critically important foundation for good Medicaid reform in Nebraska that if it were physically possible for me, I would get down on my knees in front of this committee and beg you to give these two bills a chance. And you've got to know I don't beg too well. (Laughter) Since I'm not medically improved, I'll just have to be satisfied to ask that you do it.

SENATOR BYARS: Thank you, Tim. I appreciate your testimony. Any questions for Mr. Kolb from the committee? Thank you, Tim, for testifying.

TIM KOLB: Thank you.

SENATOR BYARS: Tim, you didn't need to do that. (Laughter)

CORTNI KRUSEMARK: Hi. Good afternoon. I'm Cortni Krusemark, C-o-r-t-n-i K-r-u-s-e-m-a-r-k. I'm the registered lobbyist for the Nebraska Occupational Therapy Association and am a practicing occupational therapist in the state of Nebraska. I'm testifying today on behalf of the Nebraska Occupational Therapy Association and in opposition of LB 1248, with specific attention to the limitations demonstrated in Sections 8 and 9. As a professional working directly with the Nebraska Medicaid program, it is recognized that the Medicaid program needs substantial reform and recodification to better serve the recipients in this state. However, it is important to mention that although we are considering the experiences and outcomes of other states that have developed and implemented such changes, it is not adequate to assume that the same defined contribution system is appropriate for the state of

Nebraska. In Section 9 of LB 1248, the proposed language presents limitations on Medicaid-covered services through the establishment of schedule of premiums, copayments, deductibles for goods and services. In addition, the language also promotes limitations on the amount, duration, and scope of goods that recipients may receive under this program. The Nebraska Occupational Therapy Association strongly opposes the proposed limitations and does not see this as a means to cut or save money. Placing limitations on the availability of services and care restricts excess of the level of healthcare that the Medicaid recipients not only need but also deserve. While we recognize that limitations need exist to the resource allocation, we ask the committee to consider studying alternatives before implementation of limitations that may restrict individuals from achieving their highest level of independence. As a practicing occupational therapist, I can easily recognize that by placing limitations on services, we are restricting these individuals from being productive, independent individuals that may independently return to live in our communities. In turn, the Nebraska Medicaid Program will expend more Medicaid monies paying for services in long-term care facilities because recipients have not received the therapies required to assist them with achieving independent living. As you may know, the largest expenditure for the current Medicaid program is paid to long-term care facilities. By removing limitations to appropriate services, this percentage can be reduced even more and provides an option for saving Medicaid monies. It must also be recognized that as an occupational therapist, our code of ethics holds us accountable to make it our responsibility to discontinue skilled services when the individual has shown a plateau or when services are determined no longer a benefit for a specific individual. Working for a rehab company which serves individuals with traumatic brain injuries and spinal cord injuries, it is observed on a daily basis that although these individuals have the same diagnosis, their symptoms and deficits vary dramatically. Thus, by placing them all on the same limitations of services, we are not providing the individualized care that they may need to return to the community to be productive and to give back to our great state. Finally, the Nebraska OT Association opposes the proposed language that reads that the Medicaid-covered services be generally reflective of and

commensurate with group health insurance coverage provided by the public and private employers and private sector insurers in this state. We are in opposition of this language because many private health insurance plans contain limitations on number of physicians visits, the nature of visits, and the emotional and behavioral health needs. In addition, many do not cover the costs of durable medical equipment such as wheelchairs, walkers, toilet seats, and artificial limbs or eyes, which, in many cases, these are the exact factors of determining if this individual can live independently in their environment in the community or not. Finally, many private insurance plans do not cover dental or vision, which in the face of a developmental disability is the key to discovering interventions that could decrease and sometimes eliminate their disability. Such limitations for a population that does not have the discretionary income to invest in these services may disable them more than their disability itself. In closing, the Nebraska OT Association urges the committee to propose the recommended changes to LB 1248. Thank you for the opportunity to speak with you today. I'm open for any questions, if you have any.

SENATOR BYARS: Thank you very much for being here. Any questions?

CORTNI KRUSEMARK: Thank you.

SENATOR BYARS: Thank you very much. Next opponent? How many more opponents do we have? Please keep it brief. Thank you very much. I think we're getting the point. (Laughter)

REBECCA GOULD: (Exhibit 13) Good afternoon, Senator Byars, members of the committee. My name is Rebecca Gould, G-o-u-l-d, and I'm a staff attorney and registered lobbyist for the Nebraska Appleseed Center. Nebraska Appleseed was very engaged in the Medicaid reform process that was initiated by LB 709, and we had great expectations for positive reform. Unfortunately, LB 1248 does not represent the kind of reform that will ensure Nebraska can meet the needs of its most vulnerable children, seniors, and people with disabilities, while at the same time avoiding shifting costs to providers, county governments, and Medicaid recipients who are least able to absorb the costs. I would

echo Senator Jensen's concern about the President's proposed budget and what that's going to mean for the state of Nebraska and our ability to protect this this program. Unfortunately, this bill takes that power to protect away from the Nebraska Legislature. The primary feature of LB 1248 is the shift in decision making authority from the program away from the Legislature and into the hands of the Department of Finance and Support. In its present form, LB 1248 gives complete discretion to the Department to determine what benefits will be provided, the amount, duration, and scope of those benefits, and the amount of cost-sharing such as premiums, deductibles, and copays that will be required of Medicaid recipients. In addition, it allows the department to make other major public policy decisions such as whether we should have a separate state SCHIP program or whether we should pursue a waiver to completely change the structure and benefits offered by the program without any legislative oversight. In addition, the recent budget reconciliation bill passed at the federal level includes a number of state options for the Medicaid program, many of which would have a dramatic impact on Medicaid recipients. These options include the ability to increase premiums and copays for certain populations far beyond what is currently allowed under the program. For example, states have the option of charging unlimited premium amounts and copayments up to 20 percent of the cost of medical services for families over 150 percent of the federal poverty level. States will also have the option of charging higher copays for all populations for certain nonpreferred drugs. The federal legislation also allows for these cost-sharing provisions to be enforceable, meaning that providers could deny services or access to drugs if a person was unable to pay the copay, and the person could be terminated from Medicaid if they were unable to pay their premium. Another option would allow the state to reduce the mandatory benefit package for children. These state options present major changes from the current Medicaid program and, if adopted, would gravely impact the ability of Nebraska's 200,000 Medicaid recipients to obtain needed medical care, continue to live independently, work, and achieve self-sufficiency. These options should not be implemented without legislative oversight and careful study and public input from recipients, providers, and county governments who will feel the impact of these provisions and would be asked

to absorb the costs. In light of these new federal options, it's even more important that the Legislature maintain decision making authority and oversight over the program. In order for us to support this legislation, we would need to see the list of benefits, including optional benefits, codified in statute; clear guidelines to be used to determine amount, duration, and scope of services; and parameters for determining appropriate premiums and copays. We would like to see legislative oversight of the waiver process and removal of the section that creates the option of setting up a separate state SCHIP program. What level of care the state of Nebraska provides to its most vulnerable citizens is a decision that should remain with the Legislature, which is charged with the duty to set public policy for the state. Divesting that authority to the Department creates great uncertainty for the program and the children, seniors, and people with disabilities served by the program. Therefore, I would ask that this committee not advanced LB 1248. And I would be happy to answer any questions.

SENATOR BYARS: Thank you, Ms. Gould. Any questions? If not, thank you for being here. Next opponent please?

MIKE SCHAFER: (Exhibit 14) Senator Byars, Senator Jensen, and members of the committee, my name is Mike Schafer, S-c-h-a-f-e-r, and I'm testifying today on behalf of the League of Human Dignity in opposition to LB 1248. I'm going to spare you reading my whole testimony and ask that a copy be distributed. I want to just make a couple of general comments. We appreciate the research, time, and energy that has been invested in finding solutions to address the rising cost of Medicaid while also ensuring the medical needs of low-income Nebraskans are met. We understand the enormous responsibility you have in this balancing act, and we support continued efforts to find cost-effective solutions to meet the healthcare needs of low-income Nebraskans. We also recognize the need to continue the provision of community-based services that have proven to be cost-effective options that allow people with disabilities to receive the critical services that support them to live in their homes and communities, not in costly institutions. Because Medicaid reform in Nebraska will affect so many individuals, both directly and indirectly, we believe that

the process of determining desired change must be one that is very open. The Medicaid reform process must embrace every opportunity to solicit input from the general public. At every critical juncture the Medicaid reform process must actively and sincerely invite debate of the issues, anytime proposals for change in eligibility, programs, benefits, and rules and regulations are brought forth. It is based on these values that we propose the following language changes to LB 1248. And I won't read those, because they're there. They're specific recommended language changes, and we believe better ensure the public process.

SENATOR BYARS: Thank you, Mr. Schafer. Any questions? I thank you for your testimony. Are you okay?

LAURIE ACKERMANN: Yes. I'm fine.

_____: What did I do, run into you? (Laughter)

LAURIE ACKERMANN: No. The chair slipped.

SENATOR BYARS: The chair jumped up and got her. Welcome.

LAURIE ACKERMANN: Yes, that's right. I'm trying to hurry, in the essence of time. Welcome. Thank you very much.

SENATOR BYARS: Welcome. And just relax. We don't want any injuries here. (Laughter)

LAURIE ACKERMANN: No, I'm fine. I'm fine now.

SENATOR BYARS: We're trying to reform workmen's comp and we haven't had that yet.

LAURIE ACKERMANN: (Exhibit 15) I'm Laurie Ackermann. It's L-a-u-r-i-e A-c-k-e-r-m-a-n-n. I'm from the Ollie Webb Center, Inc. in Omaha, representing the Arc of Omaha. And I'm actually going to read a very short, quick letter on behalf of some of our constituents, they're parents, Jay and Joann (phonetic) Martufi, it's M-a-r-t-u-f-i, because I believe it represents sort of the voice from the grandstand. Today you've heard from several people who work in the field who either experience or are recipients of services but these are just individuals out there and how it will impact

them. And many of our other families and individuals share this same sentiment. Nebraska as recently as the 1980s was considered a national leader in the care and treatment for persons with disabilities, particularly those with dual diagnoses, mental retardation and mental illness specifically. Since 1990, however, waiting lists for services, residential placement, and overall funding outlooks have gradually deteriorated. The reasons cannot be pinpointed or simply spelled out in black-and-white terms. I, however, as the parent of an adult son with a developmental disability, have witnessed a general attitude in the state Legislature and state government of de-emphasizing all, if not most priority areas of interest in the DD arena. This has occurred in the name of cost savings, economy building, and shifting of funds and redistribution to perhaps more ag-related funding projects. These are all noteworthy endeavors for the state and I could not contest any of them. Medicaid funding is a critical area presently. I understand that Medicaid fraud is still rampant. Should the most, yes, most vulnerable citizens bear the burden, however? My son is now placed in a supervised residential facility and day work vocational center. This was after a long waiting period, and after having him to undergo many periods of anxiety and change of environments, particularly because of his mental illness, bipolar disorder, plus having mental retardation. We feel very fortunate for his placement at present. We are, however, filled with fear as to how he will be treated as a consumer in the near and long-term future. We are in the elderly category and can only shudder as to what tomorrow will bring when we are no longer here. Surely this state will not allow him to become a throw-away child or adult. LB 1248 at first glance appears to address the issue of caring for those with developmental disabilities through financial departments and monetary accounting vehicles. However, they completely take out the human element. My son's history of behavioral episodes due to his illness cries out for crisis centers locally accessible. Funding for residential care agencies are in dire need of upgrading. Any degrading of Medicaid funding flows to Nebraska's special citizens cannot be allowed to happen. This state should never put those who cannot care for themselves in a compromised position. Jay and JoAnn (phonetic) Marturi, Omaha.

SENATOR BYARS: Thank you very much.

LAURIE ACKERMANN: And then I'm going to leave that. And then also, I'm leaving testimony, in the essence of time, on behalf of Mary Gordon and the Nebraska Planning Council on Developmental Disabilities, and that written testimony is here.

SENATOR BYARS: (Exhibit 16) Thank you very much. Have the record reflect, also, we've received a letter in opposition to LB 1248 from the National Association of Social Workers, Nebraska Chapter. Welcome.

JEFF KUHR: (Exhibit 17) Good afternoon, Senator Byars, members of the committee. My name is Jeff Kuhr, K-u-h-r. I represent the Public Health Association of Nebraska, and today we are here in opposition to LB 1248, but I'd like to qualify that by saying that we support Medicaid reform. We have followed the activities of the Medicaid Reform Advisory Council, and we appreciate the recommendations made by Director Nelson in his report because we feel that we will play a part, with our local public health departments, in the future of Medicaid in Nebraska. However, I just want to reflect what's been reflected earlier it the language. There's some concern that the legislative oversight was removed. I know Mr. Santema made mention that there are some alternatives to that, but they weren't in there. And so we just want to make sure that, you know, if the evil empire takes over 15 years down the road that this doesn't become the responsibility of the local communities to pay for their dentistry, their pharmaceuticals, and some of the other optional services.

SENATOR BYARS: We appreciate it very much. Any questions or comments? Doctor? Senator?

SENATOR JOHNSON: Well, I hate to stop things since we're going so good now, but I think one of the things that should be mentioned here is this. A lot of people have worried about the delegating of services from the Legislature to the executive body. I don't think that there's any question that this will continue to be the case because of term limits. When you make the Legislature weaker, you're going

to make the executive branch stronger.

JEFF KUHR: I agree, and it was a technical bill and we felt it needed mentioned. But I also want to make mention that we do appreciate the fact that we are under legislative oversight and we work very well with the legislation, and so we would like to see that continued, so...

SENATOR BYARS: Thank you for your testimony.

JEFF KUHR: Thank you.

SENATOR BYARS: Let the record reflect we have a letter from the Arc of Norfolk in opposition to LB 1248, and let that be made a part of the record. Welcome. (Exhibit 18)

ANNIE ANDERSON: Good afternoon, Senator Byars, and members of the Health and Human Services Committee. For the record, my name is Annie Anderson, A-n-d-e-r-s-o-n. It was with great anticipation that I read LB 1248, the Medicaid reform legislation. My interest in this bill is intense and personal because I'm mom to George, age 19, who was born with developmental disabilities. Because of George's disabilities, he is in the process, with our guidance, of applying for Medicaid. George is still in high school at age 19, and will be going into a young adult educational program called the Transition Program to maximize his educational potential until he is age 21. As a student, he is currently unemployed, although he has applied for jobs but has not been hired, and is about to age out of both my husband, my ex-husband, and my insurance plans. As a parent who attended the Omaha Medicaid reform public input meeting, I took note of the many cost-cutting suggestions and creative ways to streamline and serve Nebraskans through Medicaid. In a quick rehash, some of the more solid ideas were the cash and counseling proposal, the Medicaid buy-in program, involvement of consumer and professional input in the planning and implementation process of Medicaid reform, mental health parity, and money following the person. Sadly, at this time, none of these well thought out suggestions and recommendations or cost-saving measures found their way into the current piece of legislation at hand, LB 1248. Another troubling piece of language, which has been mentioned in LB 1248, is the Medicaid be

commensurate with private and public health insurance in elimination of many optional services. How this will affect my son is that losing access to an optional service like prescription drugs, he needs them to balance his moods and to control the pain he experiences in his eyes caused by an eye condition he has. For him, it might mean losing is vision-related services as well. For George to have no current means of income other than SSI, and no current job prospects due to the level of his disability, and no Medicaid program that can cover these things, he would be left with a medical hardship that would affect his very ability to go on into the future world of work and become a taxpayer like you and I. We have been told by his physicians that George must maintain what vision he has left through regular medical appointments, medical treatments, and available drugs. Otherwise the state of his eye condition will deteriorate into total blindness. I have to ask myself what physician, clinic, or hospital here in Nebraska will be able to treat my son and provide him with excellent medical and vision care when he has no insurance or ability to pay for services rendered. And then I have to ask myself, as his parent, how can I afford my medical care, that of my husband's, and still pay for my adult son's full medical and preventative expenses with no health insurance policy to fall back on? I oppose LB 1248 as written and ask that you reconsider some of the findings of the Medicaid reform committee and put yourself, if however briefly, into the shoes of the people who will be affected by this type of Medicaid reform. This concludes my testimony for the afternoon. Thank you very much.

SENATOR BYARS: Thank you very much for your patience in waiting to testify. I appreciate that. Any questions or comments? Thank you very much. Next testifier? Let the record reflect we have received testimony in opposition to LB 1248 from the Nebraska Planning Council on Developmental Disabilities. Let that be made part of the record. (Exhibit 15)

MARY McHALE: (Exhibit 19) Thank you. My name is Mary McHale, and I appreciate the opportunity to speak before the committee. M-c-H-a-l-e. And I'm the parent of a child with a disability and I also represent the Omaha Downs Syndrome Parents Network, which is a group of about 170 families. We

are opposed to LB 1248 in its current form. I'll reiterate, in the interest of time, some of the same things that other people have said. I attended the Medicaid reform input session in the TAC building in Omaha last fall. I was encouraged to see that the process by people giving their input and hopefully taking some of our suggestions at that meeting and maybe crafting some of that into LB 1248. As Annie said, right before me, nothing is in there. I echo what Patty McGill Smith said earlier: Why doesn't the state of Nebraska enact the Olmstead decision, which some of the other states have done in the United States? Let the money follow the person with the disability. Let that person decide where they want to live, what kind of services are appropriate for them, and let them maintain the quality of life that they are entitled to. When people talk about rising costs of Medicaid, my son is one of those reasons for those rising costs. He is one of those reasons because he happened to be born after 1995. If he would have been born prior to 1995 he would have died in his first year of life. Why he is alive today is because of the medical technology that is in effect, and the surgery that was done to repair the two holes in his heart. He is one of the reasons why we have higher Medicaid costs. And because of more and more medical advances, people with disabilities live longer, require more medications, all that kind of stuff. I'm here for Medicaid reform. I applaud the committee for trying to come up with a solution. LB 1248 is not one of them. And I think as I heard earlier, someone said, well, I won't always be here. So if the language is not crafted in the present bill, then what happens 15 years from now when my son is 22 years old and he is on Medicaid and there is not the language in there that permits him to have optional services such as vision, such as prescription, such as OT, such as PT, such as job placement skills. Thank you for the opportunity. Any questions?

SENATOR BYARS: Thank you, Ms. McHale. Any questions or comments? What a handsome young man.

MARY McHALE: Thank you. We like him.

SENATOR BYARS: Thank you. Next opponent?

ROGER KEETLE: (Exhibit 20) Good afternoon. For the

record, my name is Roger Keetle, K-e-e-t-l-e. I'm a registered lobbyist for the Nebraska Hospital Association. And the Nebraska Hospital Association is supporting Medicaid reform, but unfortunately we're opposed to LB 1248 in its current form. Our opposition is, in part, based on the fact that the bill does not reflect the recommendations of the Oversight Council. I understand that those amendments have been submitted, and we also have some reservations that have, I think, been ongoing that we wish to bring to your attention. The first one is, is this authorizes Health and Human Services to establish a separate Children's Health Insurance Program but the costs and benefits of such a conversion or change is uncertain. The second point that we have concerns about you've heard repeatedly, and I would just say that we share...that LB 1248 grants broad regulatory authority to HHS to eliminate Medicaid services, establish copayments and deductibles, and premium payment requirements without a procedure for stakeholder or legislative input or oversight. Part of that concern is the benchmark of trying to use commercial insurance, you've heard repeatedly it just doesn't work. And frankly, the benchmark recommended by the council doesn't work. And, aside from that, I will say that that is one of the recommendations of the council we do not agree with. And then the last point, which I probably need to work with committee counsel, is trying to make sure we don't have any unintended consequences by some of the repeals. And in my written testimony you'll have some of my concerns. As we know, Congress just passed last week the reduction in federal funding of about $9 billion per year for the next ten years. And really what that is is a cost shift to the states. And what we have to do as Nebraska policymakers is figure out how best to handle that reduction plus deal with the rising costs. So our first concern is the authorization of a separate Children's Health Insurance Program. I have not heard testimony on that at this point. With that, I have testimony that I think I can go through probably pretty quickly that might be more persuasive. What we have in here is removing the Children's Health Insurance Program from the Medicaid program into a separate program. The Medicaid Reform Council did consider this issue. It was not unanimous on this point. Our position is, is we ought to study that first, and that study ought to come back to the Legislature in December of 2007. You will find a draft

proposal for a study attached to my testimony on how we think that should work. If a separate CHIP is established, the administrative efficiencies by only having one seamless Medicaid program would be lost, and we know administrative costs and complexity will be increased. Plus, the charging of a premium is going to mean a new administrative cost for a collection of premiums. When a state collects premiums, those premiums are not matched by federal funds, and in this program it's a 71 percent federal match. So this is a very good program and we would urge the state to maximize it, not discourage its use. NHA believes that children are Nebraska's future, that children in low-income families must be healthy, and if we're going to look at this program, we need to do this very carefully. I would add that yesterday President Bush's proposed budget proposes an additional $2 billion for the Children's Health Insurance Program and that we feel Nebraska needs to be in a position to take advantage of what may be additional federal funding for the CHIP program, not to get into a program where we may not use the monies that are allocated now. Probably the best research we have right now is charging a premium for the CHIP program. And as you've heard now, Medicaid may be charging a premium. But here's what happens to the CHIP program when a premium is charged. Right now we have 23,569 children in the CHIP program who are eligible. But when you do the research, when you look at data from the state of Washington, Hawaii, and Minnesota, they found that only about 57 percent of the insured population would participate in a public health insurance program when premiums were set at 1 percent of income. If the premiums rose to as high as 5 percent of income, only 18 percent would participate. On page 27 of the Medicaid Reform Plan, Strategy 1.5a1, it's recommended that there be a premium imposed on a sliding scale of up to 5 percent of income. This, according to the research, could result in a 57 percent to an 87 percent reduction in the number of children covered by our current State Children's Health Insurance Program. An analysis of seven states that have increased cost-sharing between 2001 and 2005 show significant enrollment losses from people subjected to increased premiums, with the steepest losses coming within those people, obviously, with lower incomes. For example, when Vermont increased Medicaid and CHIP premiums in 2004, approximately 4,500 people dropped out of the program in the first month alone. When children become

uninsured, that translates into higher healthcare costs for everyone. We believe that we should do a careful study of really whether a change to the separate Children's Health Insurance Program makes sense, and have a good comprehensive idea of how many children potentially would drop out of the program before we do that, and not authorize it immediately as LB 1248 does. With that, I think you've got a flavor for some of our other issues. I was hoping that this would not be redundant, and I don't think it is, but that's our concern with a separate CHIP program at this point in time, and we would like to see the department do a good study and come back with a Legislature...with a good solid recommendation and report. Thank you.

SENATOR BYARS: We appreciate it very much, Mr. Keetle. Any comments or questions? I had one that I'm totally shocked. I just discovered that newborn hearing screening would be...the funding for HHS to participate in that cost-sharing would be eliminated. So that's the only comment I have right now, and I'm shocked.

ROGER KEETLE: That's one of the repealers.

SENATOR BYARS: Thank you very much.

ROGER KEETLE: And it's an issue. And again, we're here to work with you. I know a lot of the committee members aren't here, but believe me, we're more than happy to work with Jeff. Jeff's doing a yeoman's job of replacing 30 years of Medicaid law. So there's a lot of history in some of these old provisions that we need to try and...

SENATOR BYARS: Appreciate it. Thank you very much, Mr. Keetle. Next opponent?

SARAH ANN LEWIS: (Exhibit 21) Good afternoon, Senator Byars, members of the committee. My name is Sarah Ann Lewis, L-e-w-i-s, and I am the policy coordinator and registered lobbyist for Voices for Children in Nebraska. I'll try to be brief, in the interest of time. You have my written testimony. But I'm here today in opposition to LB 1248 because we do not support the broad delegation of authority granted the department to create a separate Children's Health Insurance Program. The impact on children

has not been estimated, and we believe it would be in the best interest of both children and the state to proceed with due caution before making the SCHIP program a stand-alone program. In 2004, Kids Connection provided health coverage for nearly 30 percent of all Nebraska children 18 and under. Separating SCHIP from Medicaid could result in a loss of coverage and access to medically necessary services these children currently receive. Studies have shown that the difficulties of maneuvering between two different programs results in the loss of coverage for eligible children. Voices does support the proposed SCHIP study amendment offered today by the Nebraska Hospital Association to appropriately assess the administrative and financial outcome of separate Children's Health Insurance Programs. The separation of Medicaid and SCHIP will most likely not achieve cost savings, as any savings would be consumed by additional administrative costs. Before we rush to attempt to achieve cost savings by charging already financially strapped families with copayments and premiums through the establishment of a stand-alone SCHIP program, we should carefully consider the costs of separate State Children's Health Insurance Program as compared to a combined Medicaid and SCHIP program, and provide an estimate using the methodology and assumptions used by the Congressional Budget Office for such purpose of the number of children that may lose coverage by requiring the parents of the child to pay any recommended premium for SCHIP coverage. Our concerns arise out of a substantial body of research which shows that increases in copayments lead many low-income beneficiaries to forego needed healthcare services and medications, and I believe many of these studies were mentioned today by Mr. Keetle. Voices is also in opposition to the repeal of Section 68-1025.01 which mandates the department to lead Kids Connection Public Awareness campaigns, including the distribution of literature in schools. The distribution of applications in schools has been a huge part of the success of enrolling eligible children. Along with the department, Voices for Children and other organizations in public schools around the state have experienced a great amount of time...have expended a great amount of time, energy, and resources to bring public awareness and education in regards to Kids Connection. The success of Kids Connection hinged on this effort, and over the last seven years Voices and various community agencies have received over $1 million

from private foundations to augment public education efforts. This particular funding ends March 31, 2006 with no opportunity for renewal. To revoke the department's public education and distribution of literature in schools could mean the end of public outreach to enroll more eligible children for medically necessary and available services. After all the work and success Nebraska has achieved at enrolling and providing children with necessary healthcare coverage, we need to act with caution before taking steps which could set us back and impact children's health. Therefore, we ask this committee to accept the proposed SCHIP study amendment offered by the Nebraska Hospital Association and to support the ongoing public education by the department, or kill LB 1248. Thank you.

SENATOR BYARS: Thank you, Sara Ann. Any questions? If not, thank you for coming before the committee. Next opponent?

JIM CUNNINGHAM: (Exhibit 22) Senator Byars, members of the committee, good evening. My name is Jim Cunningham, C-u-n-n-i-n-g-h-a-m. I'm the executive director and registered lobbyist for the Nebraska Catholic Bishops Conference, appearing in opposition to LB 1248. I have written testimony that I have submitted. I'm not going to read that. I do just want to make a couple of comments, highlight a couple of portions that have to do with our opposition. First of all, I want to acknowledge the complexity of the challenge that Nebraska is taking on in reforming the Medicaid program. Complex, challenging, but necessary. Secondly, I want to publicly once more commend and state for the record how impressive and commendable the process has been on this. I've been around a long time in this...observing the legislative process and the public policy process, and I'd have to say that this was one of the most impressive approaches to assessing the changes necessary in policy that I've experienced. And I want to commend all those who have been involved in a leadership capacity on that count. Also I want to acknowledge, it's difficult to know what position to take on this bill. Our conclusion was that on balance it was most appropriate or most conscientious to state opposition due to our concerns and lack of comfort regarding the ultimate impact of this bill on Nebraskans who are materially poor and vulnerable.

Ours is a religious tradition that considers access to needed physical and behavioral healthcare to be a basic human right. And this right flows form the sanctity of human life and inherent dignity that belongs to all members of the human family, and we're by no means alone in that view. Most all of the political and religious traditions of the western world likewise endorse access to needed healthcare as a basic human right. That being said, we believe it is the proper role and function of government to preserve and secure human rights and we are concerned that there are possibilities that Medicaid reform, as proposed in this bill, will have the effect of not meeting the needs of those who are materially poor or that they will face significant or insurmountable barriers to accessing needed healthcare. Many, probably most of the policy changes imposed by this bill are not immediate threats to eligibility or benefits. Some, however, hold open the future to changes that could adversely affect access to healthcare for the materially poor. Our concerns and reservations focus on specific provisions of the bill that could ultimately constitute the bases for failure to secure the basic right to healthcare. And in my testimony I have outlined a number of the provisions, and you've heard from experts about most of those already in the testimony. Just one last point that I want to make. I think first and foremost, our concerns have to do with that provision of the bill that affirmatively states that there is to be no entitlement to healthcare, at least as a matter of state policy. This is a significant policy revision, and we believe that it needs to be carefully analyzed and considered. By the way, there are numerous parts in the bill that strike all references to entitlement to healthcare benefits, but there is also one provision that inserts an entitlement, and that can be found on lines 1 to 3 on page 18, and that's an entitlement to notice of denial or discontinuation of eligibility and denial or modification of benefits. It seems somewhat ironic that in a bill that strikes all references to entitlement to healthcare benefits that it would provide an entitlement to let you know when you're disqualified. And with that, I think I will close and urge the committee to approach this with concern and caution, because it is a very, very important issue that you're dealing with. Thank you.

SENATOR BYARS: Thank you, Mr. Cunningham. Any questions from the committee? Thank you very much.

JIM CUNNINGHAM: Thank you.

SENATOR BYARS: Next opponent? How many more opponents? Okay. I think we're down to our last two. Thank you all for your patience, everybody waiting on the other bills. Welcome.

PHILIP WEBB: Welcome. Hello. My name is Philip Webb. I'm a member of the State Independent Living Council and also I work at the Nebraska Department of Transportation. It's nice to meet you ladies and gentlemen. I'm here because I'm an opponent of LB 1248 because I have home healthcare services that I need for work and I would not want to lose those if this bill passed. I also support Medicaid and also the Medicaid insurance for workers with disabilities. Plus, I would hate to see that go because that could actually add to the state budget and there could be tax revenue from that. That's all I have to say this evening.

SENATOR BYARS: Thank you for your comments.

PHILIP WEBB: You're welcome.

SENATOR BYARS: We appreciate it very much. Any questions? Next opponent? Last opponent, I think.

MARLENE CHIRNSIDE: (Exhibit 23) Hi. I'm Marlene Chirnside and I'm from Omaha, Nebraska. And I'll make this real brief. Here's a picture of my daughter, and I'm not computer literate and I always say she's my support staff. I'm on Disability and I'm originally from Beatrice, Nebraska, and I still have relatives down there. And again, my disability, I do not get Medicaid at this time. I try to work. The last time I worked I had a seizure at work before I came in sick. And therefore, my daughter has to take care of me a lot of times. And I got fired from the job, and da-da-da, and this, and this, and this, and that. But my daughter got cut off of Medicaid also, and she suffers from selective mutism, and there's only three children in the Omaha Public Schools that suffer from this disability. It's an anxiety disorder that she is not able to communicate to

people. At home, she feels comfortable and she is able to do that. So I didn't have her put on medications but she did go on medications but not until November when we got back on Medicaid, or later than that. And so for her, she was cutting herself with scissors with her hairs and stuff. And then she'd say, well, mom, nobody loves me. And I said, well, why? And because the friends that she had in junior high didn't talk to her. I put her in a private school last year by working overnights and stuff so she could have students in her class and stuff. So...but with now, recently, we noticed Zoloft helped but the medication is expensive. I had high blood pressure under...for a stroke. I'm not on Medicaid. I had to go to a different doctor, and yes, it did make a difference because the medical care wasn't as good, I felt, as the other one. So I haven't gone back. And my medications are very, very high. Psychotropic medications, Depakote, all kinds of things with the heart medication, the blood pressure and stuff, is very expensive. And yes, I can have seizures. I can have all kinds of side effects. Many surgeries because of it. But I try to work. I have a job that'll be coming up two weeks in the medical field. I hope to get my nursing degree again, or whatever, you know. I'm 53 but I'm still going, but I can be a productive citizen in Nebraska. I advocate for a lot of people. I spend my own money, my own time. But again, we do need services because I want to look to the future of this little girl who's very intelligent, has all the Harry Potter books except the last one memorized. And Jean Graves (phonetic) was a very good friend of mine from Omaha, Nebraska, for years. And again, I will say thank you very much, ladies and gentleman, for taking the time...Senator Byars, we love you. We're going to miss you. And thank you for sending Helen Chirnside a Christmas card. She's my ex-mother-in-law and I visit her often. Thank you. Bye.

SENATOR BYARS: Thank you, Marlene.

MARLENE CHIRNSIDE: Thanks.

SENATOR BYARS: Appreciate that. Any questions? I think that's it. Anyone else in opposition? Anyone testifying neutral? We have a neutral testifier. Let the record reflect that I have received...

BRUCE DART: (Laughter) Thank you, thank you, thank you.

SENATOR BYARS: Please hold your applause for some of....please let the record reflect that I have received Nebraska Pharmacists Association neutral testimony also. (Exhibit 24)

BRUCE DART: (Exhibit 25) And I will try...you have my written remarks. I'll try and get those down and be conscious of time. I'm Bruce Dart. That's D-a-r-t. I'm director of the Lincoln-Lancaster County Health Department. I'm testifying in a neutral position on LB 1248 today. We do support Health and Human Service efforts, as well as the Medicaid Reform Advisory Group, and this committee's commitment to carefully study the Nebraska Medicaid Program. As a local health department, we are generally concerned about the health of our community and making sure all individuals have access to care regardless of their ability to pay. We are concerned that HHS not set copays, premium schedules, and deductibles so high that they prevent a Medicaid recipient from accessing preventive and low-level care. If these financial requirements become too costly for low-income individuals, these individuals may postpone health or dental care until more costly or more complex services need to be provided for them. We support the analysis in Section 9 that requires HHS to determine the impact of the changes on Medicaid recipients and on Medicaid expenditures. We request that the committee consider adding the impact on local government to the proposed analysis. If services are limited or copayments required, the emphasis should not be shifting the cost to local government and/or to the providers by default when the Medicaid recipient does not or cannot pay. The Lincoln-Lancaster County Health Department has to provide these services regardless of the patient's ability to pay. In many ways we are the provider of last resort, with the city of Lincoln and Lancaster County paying the cost of the service. As the enrollment broker for the Nebraska Medicaid Managed Care Program, we ask you to seriously consider before implementing a separate Children's Health Insurance Program for children whose family income is equal to or greater than 150 percent of poverty. Our experience as a local provider of health and dental services for families not eligible for Medicaid has shown that many families' income fluctuates frequently

throughout the year. This may occur because of seasonal retail work, seasonal construction work...my glasses are new...or through parent schedule changes due to their school or work schedules. The frequency of changing family income has a potential to create many more problems for providers and families, as families will go back and forth between the established Medicaid program and a separate Children's Health Insurance Program, as the family income changes. We acknowledge all the work that's been done on Medicaid reform. We appreciate the committee's time to hear all of our comments. We thank you for the opportunity to testify today. I want to assure you that the Lincoln-Lancaster County Health Department will continue to partner with HHS and the Legislature on the implementation of the Medicaid program. Thank you.

SENATOR BYARS: Thank you, Mr. Dart. We appreciate you being here. Any questions? Thank you very much. Any other testifiers neutral? To close, Senator Jensen.

SENATOR JENSEN: Thank you, members of the Health Committee. I would also like to thank everyone that did testify. I just...

SENATOR STUTHMAN: Take your time. (Laughter)

SENATOR JENSEN: Thanks, Arnie. I just want to say a couple of things. First of all, think about the first statement I made...or, first statements I made when we were talking about the facts of the federal cuts and also the growth. And I said I don't know that we have a lot of choices. We do have some choices, however, in how this bill proceeds and what is done with it. You know, we have never, from the beginning back on LB 709 and all the way through this period, we've never said that we would cut one single person eligible. We've never said that we would cut any reimbursement. Now we hear a lot a lot of times that we're going to cut all those things. We also said that we haven't at this point in time cut any options. There is one thing in the bill that I think... and we wouldn't have even had to put that in there. It says that we will look at this in light of all of the budget of the state of Nebraska. And you know, we do that today. When the budget comes out later on, we do that. We look at this in light of everything

else. And so there's a couple things, or a few things I think we really need to think about as we proceed. Now I did have the very strong feeling that people have...I don't know how much...but maybe a wee bit more trust for the Legislature than they do the administration. And that's wrong for me to say that. What I'm saying is that there's a certain amount of maybe accountability here, and so that concerns them. I think we can take care of that through an amendment. So with that...and I made note of many of the comments that were made, and I think that we can move through with this. I'm saying again, what are our options? And I think they're few. I have, by the way...I'll say this right now. I've asked Senator Byars maybe to go with the next bill and I'll pick up the last two. I don't think any of these three are going to take a whole lot of time. That concludes.

SENATOR BYARS: Thank you, Senator Jensen.

LB 1068

SENATOR BYARS: Senator Jensen, members of the Health and Human Services Committee, I am Senator Dennis Byars, B-y-a-r-s, from the 30th Legislative District. And I'm going to be brief. We'll have a couple of testifiers behind me. They will be very brief. Then we can get to the last two bills, which are Senator Jensen's. The bill that I bring before you today, LB 1068, is an important piece of legislation. I think all of us in our districts have been familiar with our community action agencies in the state of Nebraska, the way that they have levered all of the money they get in private contributions and federal grants, and they get money about every place they can beg or borrow it. And they've never been placed in state statute, and I think it's time. I wasn't aware of this. When this came to my attention it was kind of a shock. But after I listened awhile I found out that I just really wasn't aware. There are nine community action agencies that cover the state of Nebraska. They do receive some funding through the federal community services block grant. This LB 1068 takes the current structure of community action agencies and places it into state statute. It lays out the details of the board of directors, powers and duties of each action agency, and the

allocation of federal funds. I want to emphasize it doesn't create a new program. It places an existing program, an excellent one at that, into state statute. It does request $200,000 of the state General Funds. Community action agencies may use these dollars as matching funds to obtain additional federal dollars. The Department of Health and Human Services, who I don't think will testify today, has been very helpful. They have brought some changes to the bill that I think are very appropriate, I'm in agreement with, and we can work with them and with Jeff to make those changes appropriate. And with that, I will probably waive closing but I will let the community action agencies testify behind me, and ask them to be brief.

SENATOR JENSEN: Thank you, Senator Byars. Any questions of the senator? Don't see any. First proponent, please? I do have the letter that Senator Byars earlier referred to from Health and Human Services, position...not taking a formal position, but some things in there that they suggested, and that's part of the record. Thank you. Welcome. (Exhibit 1)

DICK PIERCE: (Exhibit 2) Hi. Senator Jensen, members of the committee, thank you for taking time out to listen to the proponents of this bill. My name is Dick Pierce. I'm from Miller, Nebraska. That's P-i-e-r-c-e. A little background about me. I'm in my tenth year on the Buffalo County board of supervisors, and in the tenth year on the board of directors of the Community Action Partnership of Mid-Nebraska, which is located in Kearney. Thank you for considering this bill, LB 1068, and thank you for listening to our testimony this afternoon. I'm sure you understand the important role that our community action agencies play in Nebraska. There would have been plenty of others to testify to that, but we lost our numbers. (Laugh) But anyway, I'm here to present a little different angle to the importance of our community action agencies and the importance of this bill. I'd like to refer you to the list of partnerships that I have presented with my testimony. And Mid-Nebraska, or the Community Action Partnership of Mid-Nebraska serves a 27-county area. And in that 27-county area we have approximately 5,650 partnerships. That number is impressive in itself, and this is a very good example of what community action agencies do with the monies that they

receive from the various funding sources available to them. Had there been other testimony, I believe the term "leveraging" would have been used more than once. I'm going to use that same term, and the monies that our community action agencies receive will get used in ways that make them sometimes 20 times more valuable or possibly even more, through these partnerships. I know 20 to 1 is the figure that we use in Mid-Nebraska. There is a particular agency out west that is 40 to 1. So the money is used very well. The money that comes to our communities is used to help people that are less fortunate to either maintain or begin to live lives with more dignity. We see people that could be taking handouts that are rebuilding their lives with this help. These people are becoming more productive citizens and playing vital roles in our society. In some instances, they are learning job skills to better their economic status. Others are getting access to medical services otherwise not available to them because of personal finances. Still others are able to upgrade the quality of their housing, thus living healthier and being able to provide healthier environments for their families. The list goes on. As a public servant, I like to see these types of operations because they're lending a helping hand instead of giving a handout to the less fortunate. Too often the line of least resistance is to just give someone what they need right now, but in so doing, you're just treating the symptom and not promoting the healing process, so to speak. If you do more to help that someone get past the cause of their plight, they become more than just another victim of circumstances. They can go on to become that productive citizen that I mentioned earlier. This is why LB 1068 is such a good investment in the citizens of our state. The money that would be available to our community action agencies will be used wisely and will give the state of Nebraska an opportunity to be more of a major player in the war on poverty. The Community Action Partnership of Mid-Nebraska recites the community action brand promise before every one of its board meetings. The promise pretty well sums up what I'm trying to say here in my brief remarks. And that brand promise goes like this: Community action changes people's lives, embodies a spirit of hope, and improves communities. We care about the entire community and are dedicated to helping people help themselves and each other. Thank you, once again, for

allowing time for our testimony today.

SENATOR JENSEN: Thank you. Question from Senator Byars.

SENATOR BYARS: I just now...I was just told as I went to the back of the room that we're going to have the testimony from you and we have letters here that we can place on file rather than the other community action directors and the state director testifying. Is that correct, Mr. Lewis (sic)?

DICK PIERCE: Correct.

SENATOR BYARS: I appreciate that. And I would just make it part of the record that Richard Nation from Blue Valley Community Action Partnership would submit a letter in favor, the board of directors of the Southeast Nebraska Community Action Council, and the Community Action Partnership of all of the associations, Nebraska Community Action agencies, all are submitting letters in favor of the legislation. (Exhibits 3-5)

SENATOR JENSEN: Thank you. Any questions of Mr. Miller? No?

DICK PIERCE: Pierce.

SENATOR JOHNSON: Pierce.

SENATOR JENSEN: Pierce.

DICK PIERCE: Pierce from Miller. (Laugh)

SENATOR JENSEN: From Miller.

SENATOR JOHNSON: Jim?

SENATOR JENSEN: Yes. Senator Johnson.

SENATOR JOHNSON: There are two candidates running for Senator Cudaback's seat, and this is one of the gentleman right here, so I hope you don't get discouraged from what you see today. (Laughter)

DICK PIERCE: I'm used to waiting; I was in the military once, so...

SENATOR JOHNSON: No, I was just saying we have a lot of good people come and testify about important problems.

DICK PIERCE: Right.

SENATOR JENSEN: Thank you.

DICK PIERCE: Thank you.

SENATOR JENSEN: Any other questions of Mr. Pierce? Thank you for coming.

DICK PIERCE: Thank you.

SENATOR JENSEN: Next testifier in support? Korby?

KORBY GILBERTSON: Good afternoon, Chairman Jensen, members of the committee. For the record, my name is Korby Gilbertson, spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of the Nebraska State Home Builders Association in support of LB 1068, insofar as they support the availability of affordable housing and think that the action agencies do a wonderful job. And I'll be very brief because I have to go pick up my son at day care by 6:00 or they throw him out on the street. (Laughter) So that's why I'm talking really fast.

SENATOR JENSEN: Any questions of Ms. Gilbertson? We've got a list here we want you to answer. (Laughter)

KORBY GILBERTSON: Thank you.

SENATOR JENSEN: Thank you. Anyone else wish to testify in support? In opposition? Neutral testimony? Senator Byars waives closing.

LB 1232

SENATOR BYARS: Senator Jensen, to open...you want to open

on both LB 1232 and LB 1231, or separate?

SENATOR JENSEN: I suppose separate. Which one is first?

SENATOR BYARS: Okay. To open on LB 1232.

SENATOR JENSEN: Okay. Thank you, Senator Byars, members of the Legislature, for the...or, members of the Health Committee. For the record, my name is Jim Jensen, representing District 20, here to introduce LB 1232. This is an issue clearly related to Medicaid reform. And the purpose of LB 1232 is to explore and prepare a way for legislation relating to mental health insurance parity. And I really struggled, should I just introduce a bill for parity or should we introduce this? After visiting with some of the proponents, I think they said, let's try this. LB 1232 requires the Health and Human Services Committee of the Legislature to provide an independent study and an actuarial analysis of the impact of a behavioral health insurance parity. A report must be submitted by December 1, 2006 to the Governor, and Health and Human Services, and Banking and Commerce and Insurance Committees of the Legislature. I think now there are enough states that have parity that we can look with some real certainty as to the cost of this. And I don't think there's any question that the state is losing by not having a parity bill. But this will really give us the information that we need to determine that and then, hopefully, whoever is here next year can take this a step further. With that, Senator Byars, I'd look for the testimony of those to follow me.

SENATOR BYARS: Thank you, Senator Jensen. Any questions of Senator Jensen? Thank you, Senator. Let the record reflect that there are letters in favor of LB 1232 from the Nebraska Planning Council on Developmental Disabilities and from the Nebraska Medical Association. Let those be placed as part of the record. Welcome. (Exhibits 1-2)

ROGER KEETLE: (Exhibit 3) Good evening, Senator Byars and members of the Health and Human Services Committee. For the record, my name is Roger Keetle, K-e-e-t-l-e. I'm a registered lobbyist for the Nebraska Hospital Association. We support LB 1232. As Senator Jensen has mentioned, we now have arbitrary limits on the amount of mental health

benefits available that do not apply to physical health and private insurance. Mental health parity insurance would help reduce the burden on state government to provide mental health services. An extensive Congressional Budget Office analysis has estimated that businesses would experience a cost increase of less than 1 percent to implement full parity. Thirty-seven states have adopted and implemented parity laws, and of the 37 states, 16 have put full parity in place. Budgets have not imploded for these states. Mental health coverage has not been dropped in any significant way. And it's time for Nebraska to take an objective look of what the cost would be of mental health parity in Nebraska. And I would suggest that this might be a good use of some of the healthcare trust fund money rather than General Fund. But with that, we would urge you to support and advance LB 1232. This is something we really need to do in Nebraska.

SENATOR BYARS: Thank you, Mr. Keetle. Any questions? Seeing none, thank you.

ROGER KEETLE: Thank you.

SENATOR BYARS: Next proponent in favor of LB 1232?

TOPHER HANSEN: Good afternoon, Senator Byars, members of the committee, my name is Topher Hansen, T-o-p-h-e-r, Hansen, H-a-n-s-e-n. I'm here on behalf of the Nebraska Association of Behavioral Health Organizations, or NABHO. NABHO is here in favor of this, and supports this as a common-sense bill. This is a three-legged stool that we have going on in terms of services with Medicaid, behavioral health, and private health insurance. And we have been missing the third leg of this stool for a long time. From a 50,000-foot view, one would have to sit and shake one's head to wonder why we weren't on board with this a long time ago. We need to get a system in place, and a system cannot be in place if we're missing one of the major components. Again, we are strongly in support of this and will monitor closely and be right here with you.

SENATOR BYARS: Thank you, Topher. Any questions? Next proponent for LB 1232?

JOHN O'NEAL: (Exhibit 4) Thank you for the opportunity to testify today. My name is John O'Neal, and I'm testifying today on my own behalf. For the past few years I've been the facilitator of Nebraska's Parity Coalition, which helped pass Nebraska's current mental health parity law and whose members continue to be supportive of improved parity legislation. I support Senator Jensen's bill. Personally, I am confident the results of an independent study will strengthen the case for mental health parity. I'm sure I speak for all the members of the coalition when I say that we will be happy to assist in this process in any way that we can. I would be happy to answer any questions. Thank you.

SENATOR BYARS: Mr. O'Neal, thank you very much for being here. Any questions? Thank you. Any other proponents?

BRAD MEURRENS: (Exhibit 5) Thank you. Good evening, Senator Byars and members of the Health and Human Services Committee. For the record, my name is Brad Meurrens, M-e-u-r-r-e-n-s, it hasn't changed since the last time I spoke, and I am still the public policy specialist at Nebraska Advocacy Services, Incorporated. We...I am here today to testify in strong support for LB 1232. I will not read my testimony. You have it in written form. However, I would like to state for the record the Nebraska Advocacy Services has had a long history of supporting mental health parity in Nebraska. We were instrumental in getting the 1999 bill passed. And I think the best part about LB 1232 is that it gets at the heart of the matter. It has been our experience that the major stumbling block and major barrier to implementing full parity in the state of Nebraska was that the numbers were unknown. There...you know, competing numbers from the insurance side and those individuals, and then from the parity coalition advocates there was a different number. There seems to be some unclarity about what the implications are of instituting full mental health parity. We fully believe that this bill gets at...provides the state some level of clarity as to how much the impact and cost of full mental health parity would be for the state of Nebraska. And in that vein, we support that. I've also handed out, in addition to my testimony, a fact sheet that we developed about the benefits and the problems, current situation, relative to mental health parity, limited parity,

and full parity. I would also like to hand out a letter of support from the Arc of Nebraska, as well. Given the time, they had to leave. I would be happy to entertain any questions this committee might have.

SENATOR BYARS: Thank you. Any questions for Mr. Muerrens? If not, thank you for your testimony. Let the record reflect we are receiving a letter in support from the Arc of Nebraska. Any other proponents? (Exhibit 6)

TOPHER HANSEN: Senator, Topher Hansen again. If I might...I was remiss in a piece of what I wanted to say, and that is, my thanks to Senator Jensen for leading the way on this. I think the Nebraska Association of Behavioral Health Organizations has come out strongly in support and to say thank you. And I would like to pass that message as a matter of record. Thank you.

SENATOR BYARS: Thank you. Anyone else as a proponent? Anyone in opposition? Anyone neutral? Seeing none, would you like to close on LB 1232, Senator Jensen?

SENATOR JENSEN: No. (Laughter)

SENATOR BYARS: Senator Jensen waives closing. He's a very bright Senator.

LB 1231

SENATOR BYARS: To open on LB 1231, Senator Jensen.

SENATOR JENSEN: (Exhibit 1) Thank you. For the record, my name is Jim Jensen, representing District 20 in Omaha. I'm bringing to you LB 1231, and this was brought to me by the Minority Health Association. Kind of similar to what Senator Byars' bill before the last one was. The Office of Minority Health are looking at term limits and looking at different administrations, and this is not in statute. Yes, it is in LB 692, but there is nothing in statute. We have a Minority Health Office and then we have three offices in the three congressional districts. This would put those in statute. Section 1 provides the purposes and duties for office. Section 2 requires the office to establish a

satellite office of Minority Health in each congressional district to coordinate and administer state policy relating to minority health. Duties of the satellite offices are provided. Each satellite office is require to implement a minority health initiative in counties with a minority population of at least 5 percent of the total population in that county, which they'll target but not limited to. Infant mortality, cardiovascular disease, obesity, diabetes, asthma--each satellite office is required to submit to the department an annual report by October 1 of such initiative. Section 3 requires a Minority Health Advisory Committee consisting of 21 members to be appointed by the director of the department, staggered three-year terms. The committee is required to meet at least quarterly, or more frequently, at the call of the director. Section 4 outright repeals 71-1628.07, and the bill as introduced was drafted primarily from the information currently on the Health and Human Services web site about minority health. I'm also distributing to you an amendment to the committee, which reflects a draft of the legislation as originally submitted to me. We put our own draft in. They said, we like our original one better. So that's where we go back to. With that, that's primarily what the bill does. I would be glad to answer any questions.

SENATOR BYARS: Thank you, Senator Jensen. Any comments for Senator Jensen? Questions? Thank you, Senator. Any proponents of LB 1231? Any opponents of LB 1231? Anyone that dares to be neutral on LB 1231? (Laughter) Let the record reflect that we have a letter in support of LB 1231 from the Public Health Association of Nebraska, and from the city of Lincoln, Nebraska and the city...the Lincoln-Lancaster County Health Department in favor of LB 1231. Would you care to close, Senator Jensen? (Exhibits 2-3)

SENATOR JENSEN: No. (Laughter)

SENATOR BYARS: This will end the hearing on LB 1231.